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# THE LEGISLATIVE ASSEMBLY DEBATES

(OFFICIAL REPORT)

VOLUME VII, 1932

*(29th November to 15th December, 1932)*

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## FOURTH SESSION OF THE FOURTH LEGISLATIVE ASSEMBLY 1932



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1933



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# **Legislative Assembly.**

## ***President :***

THE HONOURABLE SIR IBRAHIM RAHIMTOOLA, K.C.S.I., C.I.E.

## ***Deputy President :***

MR. R. K. SHANMUKHAM CHETTY, M.L.A.

## ***Panel of Chairmen :***

SIR HARI SINGH GOUR, K.T., M.L.A.

SIR ABDUR RAHIM, K.C.S.I., K.T., M.L.A.

MR. G. MORGAN, C.I.E., M.L.A.

MR. MUHAMMAD YAMIN KHAN, C.I.E., M.L.A.

## ***Secretary :***

MR. S. C. GUPTA, C.I.E., BAR.-AT-LAW.

## ***Assistants of the Secretary :***

MIAN MUHAMMAD RAFT, BAR.-AT-LAW.

RAI BAHADUR D. DUTT.

## ***Marshal :***

CAPTAIN HAJI SARDAR NUR AHMAD KHAN, M.C., I.O.M., I.A.

## ***Committee on Public Petitions :***

MR. R. K. SHANMUKHAM CHETTY, M.L.A., *Chairman.*

MR. G. MORGAN, C.I.E., M.L.A.

MR. C. S. RANGA IYER, M.L.A.

SIR ABDULLA-AL-MAMUN SUHRAWARDY, K.T., M.L.A.

MR. B. SITARAMARAJU, M.L.A.



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# LEGISLATIVE ASSEMBLY.

*Tuesday, 29th November, 1932.*

The Assembly met in the Assembly Chamber of the Council House at Eleven of the Clock, Mr. President (The Honourable Sir Ibrahim Rahimtoola) in the Chair.

## QUESTIONS AND ANSWERS.

### **POLICY RE GRANT OF PENSIONS TO THE HEIRS OF SEPOYS KILLED IN WAR AND OF INDIAN SEPOYS DISABLED IN THE GREAT WAR.**

1498. \***Pandit Satyendra Nath Sen** (on behalf of Mr. S. G. Jog): (a) Will Government please state if there is a change in their general policy in respect of the grant of pensions to (i) heirs of sepoy killed in or died of war diseases, and (ii) Indian sepoy disabled in the Great War?

(b) If the reply to part (a) above be in the negative, will Government please state if they have issued an Army Instruction lately in 1931, according to which the Controller of Military Pensions is to grant only three years arrears of family pensions and in no case more than five years' arrears in all claims in which pensions had not been granted for some reason or other?

(c) Is it also a fact that the aforesaid Army Instruction, mentioned in part (b) above, is being very strictly observed even in cases of children allowance? Is it a fact that such claims should have been initiated on the death of the sepoy by the Officer Commanding? Is it a fact that according to para. 44 of Financial Regulations for the Army in India, Part I, the Officer Commanding is considered to be the claimant on behalf of Indian military pensioners, especially of illiterate widows and of minor heirs? Are Government aware that claims of the latter according to civil law do not go time-barred till after three years of their attaining majority?

(d) Will Government please state if there is any limitation fixed for the submission of claims to family pensions and children allowance? Is there any rule or law to show that such claims preferred after a certain time are time-barred?

(e) Will Government please also state whether Army Instruction (India) 87 of 1931, restricting arrears of family pensions up to a limit of three years is to come into operation from the date of its issue or whether it will have also retrospective effect in the sense that it will be applicable to persons who became entitled to family pension before the issue of this Instruction?

(f) Is it also a fact that certain Indian ranks, who sustained disability on field and foreign service, were sent back to India for treatment and died in Indian military hospitals as the result of that disability, but their heirs have been considered ineligible for family pensions and medical boards have certified their deaths as not attributable to field or foreign service, nor to drinks and drugs or self-aggrandisement?

(g) Is it not a fact that in case of death occurring on field service the presumption warranted by the appendix to Army Instruction (India), 238 of 1921

(approved by the Secretary of State for India) is that such death must be presumed as attributable to field service?

(h) Will Government please state if there are different rules or regulations in respect of the attributability of such deaths as mentioned in part (f) above? Is there anything to show that such cases are excluded from the presumption referred to in part (g) above?

(i) Does the term "military service" include field and foreign service also? If not, why do the Indian Medical Boards use the expression "Not attributable to field, foreign or ordinary military service" in their findings?

**Mr. G. R. F. Tottenham:** (a) No, Sir.

(b) Yes, but the Controller only possesses these powers when the claimant has been unable to give a satisfactory explanation of the delay in submitting the claim.

(c) The facts are generally as stated, but the Indian Limitation Act does not apply to the entertainment of pensionary claims by Government, and, as mentioned in the statement laid on the table on the 15th September in reply to Sardar Sant Singh's question No. 299, claimants, as well as Commanding Officers, are responsible for the prompt initiation of their claims.

(d) No.

(e) Claims initiated on and after the date of the Instruction, and claims outstanding on that date, are disposed of in the manner prescribed by the Instruction.

(f) Government are not aware of any such cases. I may add, Sir, that Government have never heard of anyone actually dying from self-aggrandisement.

(g) Yes, but the Army Instruction was reconstructed, also with the approval of the Secretary of State, in Army Instruction (India) No. 1058 of 1922 in which the presumption referred to was omitted.

(h) Does not arise in view of the replies to (f) and (g).

(i) The answer to the first part of the question is in the affirmative. The expression referred to by the Honourable Member is not now used by Medical Boards.

#### GOVERNING BODY OF THE LADY HARDINGE MEDICAL COLLEGE, DELHI.

1499. **\*Pandit Satyendra Nath Sen** (on behalf of Mr. S. G. Jog): (a) Is it not a fact that the constitution of the Lady Hardinge Medical College, Delhi, provides that there should be on the Governing Body one prominent gentleman of Delhi and one prominent businessman of Delhi?

(b) Will Government please state who are the present nominees and since how long they are there?

**Mr. G. S. Bajpai:** (a) Yes.

(b) Khan Bahadur Maulvi Abdur Rahman, Advocate, Delhi.

Mr. G. R. Seton, Agent, Imperial Bank, Delhi.

#### STRIKE IN THE LADY HARDINGE MEDICAL COLLEGE, DELHI.

1500. **\*Dr. Ziauddin Ahmad** (on behalf of Mr. S. G. Jog): Is it a fact that there was a strike recently in the Lady Hardinge College, and will Government state as to what the grievances were and whether they have been considered and settled? If so, how?

**Mr. G. S. Bajpai:** There was a strike. The students asked :

- (1) that the main electric switch to the Hostels should not be put off at all;
- (2) that the 4th and 5th year Medical students be allowed to keep on the light every night till 11 p.m.;
- (3) that students be allowed to visit sick students in Hospital any time between 5 p.m. and 7 p.m.; and
- (4) that the Stewardess should visit their rooms on a certain fixed day once a month only.

These requests have been substantially granted.

**HINDU AND MUSLIM CLERKS IN THE LADY HARDINGE MEDICAL COLLEGE, DELHI.**

1501. **\*Dr. Ziauddin Ahmad** (on behalf of Mr. S. G. Jog): Will Government state how many Hindu and how many Muhammadan clerks are there in the staff of the Lady Hardinge Medical College? What are their names, qualifications and their pay?

**Mr. G. S. Bajpai:** There are two Hindu and two Muhammadan clerks on the staff of the Lady Hardinge Medical College. A statement showing their names, qualifications and pay is laid on the table.

*Statement.*

Name and designation.	Qualifications.	Pay.
		Rs.
1. Mr. Shambu Nath (Hindu), Accountant.	M. A. (Commerce), G. D. A.	250 p. m.
2. Mr. K. P. Bhatnagar (Hindu), Assistant Accounts Clerk.	Bachelor of Commerce, G. D. A.	75—5—100 p. m.
3. Mr. G. S. S. Allam (Mohammedan), Stenographer to the Principal.	He served as a Head Clerk with the rank of Subedar during the War in South Persia and later in the 3rd Afghan War in 1919 and afterwards on the North-West Frontier.	150 p. m.
4. Mr. Masha Alla Khan (Mohammedan).	School Leaving Certificate, with 3 years' experience of office work.	75—5—100 p. m.

**APPLICATIONS FOR VACANCIES IN THE TRAINING RESERVE OF THE WOMEN'S MEDICAL SERVICE FOR INDIA.**

1502. **\*Mr. S. G. Jog:** (a) Is it a fact that the Central Dufferin's Fund Office had invited applications in August, 1932, for vacancies in the *Training Reserve* of the Women's Medical Service for India? If so, how many applications in all have been received, and how many lady doctor graduates have been admitted to the Training Reserve by the Executive Committee?

(b) Who are the members of the Executive Committee of the Women's Medical Service for India? How many members of the Executive Committee were present at the Interview Board, and how are selections made of the Indian lady graduate doctors? Is there any Indian doctor on the Executive Committee or on the Interview Board? If not, why not?

(c) Will Government please lay on the table a complete list of the lady doctors who have been deputed to the United Kingdom for training from year to year and for obtaining British minimum medical qualifications; and what amounts have been contributed to their training in the United Kingdom? What are the names of other lady doctors (other than Indians) who have been directly recruited to the Women's Medical Service for India in senior grades and higher status?

**Mr. G. S. Bajpai:** (a) Yes. 24 applications were received and four graduates were admitted to the Training Reserve.

(b) A statement showing the names of the members of the Executive Committee of the Women's Medical Service for India and the names of the members of the Selection Committee is laid on the table. The Selection Committee consists of the medical members of the Executive Committee. The recent selections to the training reserve were made after circulation of papers to the members of the Selection Committee. Applications are circulated to members of the Selection Committee at the time when vacancies occur. Candidates are selected according to merit. The Selection Committee takes into account academic qualifications and experience possessed by a candidate, for example, post-graduate experience as a resident medical officer.

There is at present no doctor of Indian race on the Executive Committee or the Selection Committee. The Honourable Member's suggestion will be brought to the notice of the authorities concerned.

(c) A statement containing the information asked for by the Honourable Member for the last five years is laid on the table.

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*Statement showing the names of the members of the Executive Committee of the Women's Medical Service for India and the names of the Members of the Selection Committee.*

- (1) List of members of the Executive Committee of the Women's Medical Service for India.

Her Excellency the Countess of Willingdon, C.I., G.B.E., *President*.

The Honourable Sir Henry Moncrieff-Smith, Kt., C.I.E., I.C.S., *Chairman*.

The Hon'ble Major General J. W. D. Megaw, C.I.E., K.H.P., I.M.S., *Director General, Indian Medical Service, Vice-Chairman*.

Sir Ernest Burdon, Kt., C.S.I., C.I.E., I.C.S., *Honorary Treasurer*.

Lady Bhore, M.B.E.

Major F. M. Collins, R.A.M.C., *Honorary Joint Secretary*.

Dr. M. V. Webb, Chief Medical Officer, Women's Medical Service, *Secretary*.

- (2) List of members of the Selection Committee.

The Director General, Indian Medical Service—The Honourable Major General J. W. D. Megaw, C.I.E., K.H.P., I.M.S.,

Lady Bhore, M.B.E.

Major F. M. Collins, R.A.M.C.

The Chief Medical Officer of the Women's Medical Service, Dr. M. V. Webb.

*List of lady doctors who have been deputed to the United Kingdom for post-graduate study during the period 1928 to 1932.*

Year in which deputed to United Kingdom for post-graduate study.	Name.	Diploma or Course of study for which deputed.	Nationality.	Amount contributed for training.
				Rs.
1928	Dr. Bali .	M.R.C.S., L.R.C.P. (London).	Indian . .	3,778
1928	Dr. Wischam .	Do. .	Anglo-Burmese	3,700
1929	Dr. Lakshmi Devi	Do. .	Indian . .	4,408
1930	Dr. Brooks .	Do. .	Anglo-Indian .	4,172
1930	Dr. Matthew .	Do. .	Indian . .	4,064
1930	Dr. Rekhi .	Diploma in Radiology.	Indian . .	Nil (Dr. Rekhi was trained at the expense of the Rockefeller Foundation).
1931	Dr. d'Monto .	M.R.C.S., L.R.C.P.	Indian . .	4,038
1931	Dr. Shrikando .	Diploma in Bacteriology.	Indian . .	4,016
1931	Dr. Jiwan Lata .	Special study in maternity and child welfare.	Indian . .	4,024
1932	Dr. Patil . .	Diploma in Bacteriology.	Indian . .	4,020
1932	Dr. Senjit . .	Diploma in Ophthalmology, also M. R. C. S., L. R. C. P.	Indian . .	4,016

*List of lady doctors (other than Indians) who have been directly recruited to the Women's Medical Service for India during the period 1928 to 1932 (excluding those who are no longer in the Women's Medical Service).*

- Dr. I. Torrance, M.D., Ch.B. (Glasgow) . . . Recruited in India.
- Dr. Proctor Sims, L.R.C.P., M.R.C.S. (Lond.) . . Recruited in India.
- Dr. Callender, M.A. (Cantab.), M.B., B.S. (Lond.), L.R.C.P., M.R.C.S. . . . . Recruited from England for general work.
- Dr. Orkney, M.B., Ch.B. (St. Andrews), D.H.P. (Manchester), Specialist . . . . Recruited from England.
- Dr. J. Thomson, L.R.C.P., M.R.C.S., M.B., B.S. (Lond.), M. D. (Lond.) . . . . Admitted temporarily in India.
- Dr. Horbert, M.B., B.S., M.R.C.S., L.R.C.P. (Lond.) . . . . . Admitted temporarily in India.

### NUMBER AND NATIONALITY OF PROFESSORS OF THE LADY HARDINGE MEDICAL COLLEGE, DELHI.

1503. \***Mr. S. G. Jog:** How many Professors are there in the Lady Hardinge Medical College and of what nationality are they?

**Mr. G. S. Bajpai:** Nine—three Indians including an Anglo-Indian, and six Europeans.

### FUNCTIONS OF CHIEF MEDICAL OFFICER, WOMEN'S MEDICAL SERVICE.

1504. \***Mr. S. G. Jog:** (a) Will Government state what are the functions of the Chief Medical Officer, Women's Medical Service?

(b) Will Government state whether she does any actual medical work? If not, why not?

**Mr. G. S. Bajpai:** (a) A statement of the duties of the Chief Medical Officer, Women's Medical Service is laid on the table.

(b) The Chief Medical Officer is primarily an administrative officer and like other administrative officers of medical departments is debarred from doing ordinary medical work. She has, however, been allowed to act as Honorary Consulting Surgeon to the Lady Reading Hospital, Simla, so as to enlarge the facilities available at this Hospital which is of great value to the female population of Simla and the neighbouring hills.

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#### Statement.

The Chief Medical Officer is responsible, under the Council and the Executive Committee, for the recruitment, postings and discipline of the Women's Medical Service and its training reserve. She investigates and lays before the Executive Committee applications for grants-in-aid for the medical relief of women, the founding and improvement of women's hospitals, and the education of doctors, nurses and midwives. She visits the hospitals staffed by officers of the Women's Medical Service and also inspects such other Women's hospitals as are not directly under the control of Provincial Governments. She serves on the Committee of the Maternity and Child Welfare Bureau of the Indian Red Cross Society, the Executive Committee and the Governing Body of the Lady Hardinge Medical College, and the Committee of the Lady Reading Health School, Delhi. She is also Honorary Secretary of the Lady Reading Hospital, Simla.

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### ABOLITION OF THE BOMBAY-KARACHI SEA POST OFFICE.

1505. \***Mr. Lalchand Navalrai:** (a) Is it a fact that the Bombay-Karachi Sea Post Office has been abolished and that the work is now being done at the Karachi General Post Office?

(b) If so, when was this done and what is the amount of saving effected thereby?

**Mr. T. Ryan:** (a) Yes.

(b) In April, 1932. The saving is Rs. 841 a month.

### OVERTIME ALLOWANCE TO THE KARACHI GENERAL POST OFFICE STAFF FOR DISPOSAL OF WORK IN CONNECTION WITH THE INWARD ENGLISH MAIL..

1506. \***Mr. Lalchand Navalrai:** (a) Is it a fact that no extra staff has been given to the Karachi General Post Office for the disposal of the work in connection with the Inward English Mail which was formerly done

by the Bombay-Karachi Sea Post Office and that the work is being done on payment of overtime allowance?

(b) If so, what are the rates of overtime allowance sanctioned for the work and how do they compare with the rates of overtime allowance granted to the employees at Bombay and Calcutta?

(c) If the overtime allowance has not been sanctioned yet, what is the cause of delay and what rates are proposed to be sanctioned and how do they compare with those paid to the employees at Bombay and Calcutta?

(d) If the rates paid at Bombay and Calcutta are higher, what are the reasons for the difference?

**Mr. T. Ryan:** (a) Yes. No additional staff was required as on account of the heavy fall in postal traffic during the last two years, the staff originally sanctioned for the larger offices like Karachi was found to be in excess of actual requirements. A small portion of the permanent staff of the Karachi head post office, which is required to perform extra hours of duty in connection with the inward foreign mails is given overtime pay.

(b) A statement giving the required information is laid on the table.

(c) Does not arise.

(d) Overtime allowances are based partly on the pay of the posts to which they are attached and partly on the nature and duration of the overtime duty performed. The time-scale of pay for the clerical cadre in Karachi is lower than similar scales at Bombay and Calcutta and the hours of overtime performed by the Karachi staff are less. Hence overtime pay is granted to the Karachi clerical staff at a lower rate than to the corresponding staff in Calcutta and Bombay.

*Statement showing the rates of overtime pay sanctioned for the permanent staff at Karachi, Bombay and Calcutta, who are employed on overtime duty in connection with the disposal of inward foreign mails.*

Designation of officials.	Rate at Karachi admissible for each mail.	Rate at Bombay and Calcutta admissible for each mail.	
		For duty between 6 A.M. and 11 P.M.	For duty at any other time.
	Rs.	Rs.	Rs.
Supervising Officer (Assistant Post-master).	5	12	14
Supervisor (Head Clerk) . . .	3	6	7
Ordinary time-scale clerk . . .	2	4	5
Sorting or Overseer Postman . .	1	3	3-8-0
Packer and other inferior servant .	0-8-0	1	1-4-0



**Mr. Lalchand Navalrai:** Do they not do as much overtime work as in Bombay and Calcutta which entitles them to the same overtime allowance?

**Mr. T. Ryan:** They work overtime, but not generally to the same extent. As I have just stated, the time-scale of pay in Karachi is lower and the hours of overtime performed at Karachi are less.

#### RATES OF OVERTIME ALLOWANCES IN THE KARACHI GENERAL POST OFFICE.

**1507. \*Mr. Lalchand Navalrai:** (a) Is it a fact that the rates of overtime allowance granted to the staff of the Karachi General Post Office are the same for night as well as day work, while at Bombay they are different? If so, why?

(b) Is it a fact that the staff at Karachi General Post Office have to put in six to eight hours of overtime duty during the Christmas season? If so, why are they not paid the same allowance as is paid to the staff at Bombay?

(c) Is it a fact that the Karachi Customs staff also have got different rates of allowance for night and day overtime work?

(d) Is it contemplated to revise the rates of overtime allowance granted to the staff of the Karachi General Post Office? If so, when? If not, why not?

**Mr. T. Ryan:** (a) Yes. The question of removing the anomaly referred to by the Honourable Member is under examination.

(b) As regards the first part, it may be that in times of great pressure such as the Christmas Season, overtime duty has to be performed by the Karachi General Post Office staff for such periods as mentioned by the Honourable Member. As regards the second part, the Honourable Member is referred to the reply just given to part (d) of his question No. 1506.

(c) Yes.

(d) Attention is invited to the reply to part (a). I may add that the Government of India do not consider that the case for a general enhancement of these overtime allowances at Karachi is sufficiently strong to justify such an enhancement in the present state of the departmental and general finances.

#### QUARTERS IN NEW DELHI FOR THE INFERIOR SERVANTS OF THE GOVERNMENT OF INDIA.

**1508. \*Mr. Lalchand Navalrai:** (a) Is it a fact that the Government of India obtained the concurrence of the Standing Finance Committee on the 7th August, 1926, to a grant of Rs. 6,00,000 for the construction of quarters in New Delhi for the dufftries, record sorters and other inferior servants employed in the Government of India?

(b) Has the programme been fully completed?

(c) If so, how many of the inferior staff, particularly record sorters and dufftries, have been provided with residential accommodation, and what is their percentage to the total staff employed?

(d) Do Government propose to provide for the residential accommodation of the remaining staff of record sorters, dufftries and others?

(e) If not, why has the provision made not been utilised for the use of the inferior staff? Are Government aware that they find it impossible to rent private accommodation in New Delhi?

**The Honourable Sir Frank Noyce:** The information asked for by the Honourable Member is being collected and will be laid on the table of the House in due course.

#### HOUSE RENT ALLOWANCE OF THE INFERIOR STAFF OF THE GOVERNMENT OF INDIA.

1509. **\*Mr. Lalchand Navalrai:** Is it a fact that the inferior staff of the Government of India get a monthly allowance for house rent at Re. 1 in Simla and Rs. 1-8-0 in Delhi while the rent fixed for peons' quarters by the Estate Office is Rs. 3 and that of a duffary Rs. 8? Why do not Government pay house rent allowance on the same scale to those of the inferior staff who have not been allotted quarters?

**The Honourable Mr. H. G. Haig:** Both at Simla and Delhi inferior servants in the Government of India and its attached offices are entitled to rent-free quarters or house-rent allowance in lieu thereof. Such of them as cannot be provided with free quarters make their own arrangements for accommodation and are given a house-rent allowance of Re. 1 per mensem at Simla and Rs. 1-8-0 per mensem at Delhi. The principle on which the amount of this allowance is fixed is that it should be such as to enable inferior servants to secure suitable private accommodation. This bears no relation to the theoretical standard rent of rent-free quarters which is based on the capital cost of buildings.

#### DUFTARIES' QUARTERS IN NEW DELHI.

1510. **\*Mr. Lalchand Navalrai:** Is it a fact that the dufftries' quarters were built only for the dufftries employed in the Secretariat and the Attached Offices? If so, why are these quarters allotted to the staff of local offices when the requirements of the Secretariat and the Attached Offices are not met?

**The Honourable Sir Frank Noyce:** The dufftries' quarters were built for the dufftries in the employ of the Secretariats of the Government of India and in all attached or subordinate offices, including the Local Administration, who are compelled to reside on duty with the Government of India in New Delhi, and they are allotted accordingly.

#### ABSENCE OF ROADS NEAR THE PEONS' QUARTERS IN NEW DELHI.

1511. **\*Mr. Lalchand Navalrai:** Is it a fact that big drains have been constructed all around peons' quarters and no roads have been constructed for taking *tongas* and other vehicles to the peons' quarters? Are Government aware that this causes considerable inconvenience? If so, what do Government propose to do in the matter?

**Mr. G. S. Bajpai:** My information is, Sir, that none of these blocks of quarters, of which there are several, is adorned with an obstructive periphery of drains, and that access is possible to each block from a road within easy reach.

**Mr. Lalchand Navalrai:** Can carts go there? Are there any roads for them?

**Mr. G. S. Bajpai:** Yes; there are roads alongside of them.

**GOVERNMENT QUARTERS IN NEW DELHI FOR THE MEMBERS OF THE CENTRAL LEGISLATURE.**

**1512. \*Mr. Nabakumar Sing Dudhoria:** Will Government be pleased to state:

- (a) whether it is not a fact that the Government quarters intended for the occupation of members of the Central Legislature afford different kinds of equipments and conveniences in different types;
- (b) whether it is not a fact that though orthodox officers' bungalows on Firoz Shah Road and Electric and Canning Lanes contain more accommodation as regards rooms and lavatories than Queensway and Windsor Place quarters, yet the rent charged therefor is less than those for the latter;
- (c) whether it is not a fact that Windsor Place quarters contain only one privy in such quarters although intended for a member and his family;
- (d) whether it is not a fact that the room in which the privy has been constructed in the Windsor Place quarters is big enough to be made into a decent bed-room;
- (e) whether Government have considered that such a big room could be so divided up as to afford space for the construction of two privies, one having its entrance from the attached bath-room and the other from outside the inner courtyard;
- (f) whether it is not a fact that some habitable rooms in some of the quarters and some privies in others are devoid of electric light points altogether;
- (g) whether it is not a fact that in some of the Firoz Shah Road quarters there is no water-tap either in the courtyard or outside the quarters compound as there exist in Windsor Place quarters;
- (h) whether it is not a fact that each of the privies in Firoz Shah Road quarters has a water-tap attached to it which cannot be used for any other purpose but for that of the lavatory; and
- (i) on how many occasions during the last four Delhi Sessions the Executive Engineer, Public Works Department, Central, or his Deputy, or his Assistant has visited the Members' places either to see how they had been accommodated, or to find out what inconveniences they suffered from or to take suggestions from them as to how to improve existing accommodation?

**The Honourable Sir Frank Noyce:** (a) Yes. The equipment and conveniences vary according to the designs of the buildings.

(b) Yes, but this is because the capital cost of the building forms the basis of rent.

(c) Yes.

(d) No. In any case its situation renders it unsuitable for conversion into a bed room.

(e) This could be done and Government will be glad to consider the matter as soon as financial conditions permit.

(f) All the bed rooms have been provided with electric light points, some of them very recently. Some of the servants' rooms and privies are not provided with light points. This will be done as rapidly as funds permit.

(g) and (h). Yes. I should however explain that there are taps inside the quarters in Ferozeshah Road but not in the courtyards there.

(i) The Executive Engineer and his Assistants are constantly in touch with the work on these buildings and can be called upon by the Honourable Members to see to any work that needs attention.

**Mr. S. G. Jog:** Is it not a fact that the Ferozeshah Road quarters, known as Bungalows, have got more accommodation and the occupants pay less rent whereas in other quarters there is less accommodation and more rent?

**The Honourable Sir Frank Noyce:** Yes: I have explained why that is so: the reason is that the capital cost of the building forms the basis of rent, and, for some reason of which I am not aware, the buildings in the one case cost more than those in the other. The rent is based on that fact.

**Mr. S. G. Jog:** May I know how the house rent has got anything to do with the cost of the building? The whole matter can be adjusted without incurring any loss by the Government by providing that those who have got more accommodation should pay more rent and those who have less accommodation should pay less. Government need not be concerned with the capital cost of buildings.

**The Honourable Sir Frank Noyce:** Government are concerned with it and the rent is levied in accordance with their rules regarding it.

**Mr. S. G. Jog:** That rule seems to be inequitable.

#### FREE QUARTERS TO THE BOY PEONS OF THE CENTRAL TELEGRAPH OFFICE, NEW DELHI.

1513. **\*Mr. Muhammad Anwar-ul-Azim:** (a) Is it a fact that the peons, jemadars, overseers, daftries and record lifters of the Government of India and their Attached Offices, drawing salaries up to Rs. 40 are entitled to free quarters?

(b) Are Government aware that the boy peons of the Central Telegraph Office, New Delhi, drawing a pay of Rs. 10 to 12 have to forfeit their house rent allowance of Rs. 2 each and pay ten per cent. extra rent, viz., a total of about 30 per cent. for occupying quarters?

(c) If the reply to the above be in the affirmative, do Government intend to allot them free quarters?

(d) Has Government's attention been drawn to resolution No. 30 on the same subject appearing on page 23 of the *Postal Advocate* of April 1932, passed at the Annual Conference of the Indian Posts and Telegraphs Muslim Union? If so, what action have Government taken in the matter?

**Mr. T. Ryan:** (a) Yes.

(b) and (c). The grant of free quarters or house rent allowance in lieu thereof is not a recognised condition of service for boy peons. No question of forfeiture of house rent allowance therefore arises. Some of these boy peons were however for a time allowed the concession by a mistake,—and this has been stopped.

(d) Government have seen the resolution. The last part of the question does not arise in view of the reply to parts (b) and (c) above.

#### POSTS OF TELEPHONE MISTRIES AND OPERATORS.

1514. **\*Mr. Muhammad Anwar-ul-Azim:** (a) Is it a fact that, under the Government of India, Department of Industries and Labour, Posts and Telegraphs Branch letter No. 844-Est. A./28, dated New Delhi, the 4th March, 1929, from the Assistant Secretary to the Government of India to the Director General of Posts and Telegraphs, the telephone mistries and operators were informed that the matter of converting their posts as permanent and pensionable or whether they will be granted the benefits of a contributory provident fund was under consideration?

(b) If the reply be in the affirmative, have Government come to any decision yet?

(c) If no decision has been made yet, what will be their position after being retrenched under the retrenchment rules?

(d) Do Government intend to do something in their favour?

**Mr. T. Ryan:** (a) Yes.

(b) No; the matter has not been pursued owing to the unfavourable financial conditions.

(c) The Honourable Member's attention is invited to section C of the Director General's Special General Circular No. 4, dated the 30th April, 1932, in which are reprinted the retrenchment concessions for which the officials referred to by the Honourable Member are eligible. A copy of this circular has been placed in the Library of the House.

(d) Government are not prepared to extend to these officials concessions in excess of those laid down in the circular referred to in the reply to part (c) above.

#### PAY AND PROSPECTS OF TELEGRAPH EMPLOYEES AT SIMLA AND NEW DELHI.

1515. **\*Mr. Muhammad Anwar-ul-Azim:** (a) Has the attention of Government been drawn to resolution No. 36 (appearing on page 24 of the *Postal Advocate* of April, 1932) passed at the annual conference of the Indian Posts and Telegraphs Muslim Union?

(b) If the reply be in the affirmative, what steps have Government taken to bring them in keeping with the pay and prospects of similar establishment in other telegraph offices in India, *viz.*, Bombay, Calcutta, Rangoon, etc.?

**Mr. T. Ryan:** (a) Government have seen the resolution.

(b) Government do not consider that the pay and prospects of the staff in question, at Simla and New Delhi, must necessarily correspond with those of staff in much larger towns.

**ROTATION OF DUTIES IN TELEGRAPH OFFICES.**

1516. **\*Mr. Muhammad Anwar-ul-Azim:** (a) Are Government aware that the Director General's communication No. Est.-A./29, dated 15th October, 1929, regarding fair rotation of duties is violated in many telegraph offices?

(b) If not, will Government please lay on the table a statement showing the period every clerk is attached in the administrative branch in the Central Telegraph Office, New Delhi and Delhi?

**Mr. T. Ryan:** (a) and (b). As Government have no reason to believe that the facts are as stated by the Honourable Member, they do not consider that any useful purpose would be served by the preparation of the statements which he suggests. A copy of the question is, however, being sent to the Postmaster General, Punjab.

**EMPLOYMENT OF MUSLIMS IN THE ESTABLISHMENT AND ACCOUNTS BRANCHES IN THE CENTRAL TELEGRAPH OFFICE, NEW DELHI AND DELHI.**

1517. **\*Mr. Muhammad Anwar-ul-Azim:** Will Government be pleased to state if any Muslims have ever been given any chance to work in the administrative branch especially in the establishment and accounts branches in the Central Telegraph Office, New Delhi and Delhi? If not, why not?

**The Honourable Sir Frank Noyce:** Government have no information and do not propose to call for it as postings of officials in the different branches of a telegraph office are not made on the basis of communal representation.

**EMPLOYMENT OF MUSLIMS IN THE ESTABLISHMENT AND ACCOUNTS BRANCHES IN THE CENTRAL TELEGRAPH OFFICE, NEW DELHI AND DELHI.**

1518. **\*Mr. Muhammad Anwar-ul-Azim:** (a) Is it a fact that in the Central Telegraph Office, Simla—New Delhi, Muslim clerks, though senior, have never been employed in the administrative branch, whereas their juniors have had the chances?

(b) Will Government please state as to how the second grade clerks will get experience of the establishment and accounts branches unless they are attached to the said branches?

(c) What action are Government going to take in the matter, with reference to the Director General, Posts and Telegraphs, Communication No. Est.-A./29, dated the 15th October, 1929?

**Mr. T. Ryan:** (a) Government have no information. The postings of clerks are made by the Head of the office.

(b) By 'Second grade clerks' the Honourable Member presumably refers to the lower division clerks who are meant for work of a routine nature and are not required to take up establishment or accounts work.

(c) None, as the orders referred to apply only to ordinary time-scale or upper division clerks.

**GRANT OF LEAVE TO MUSLIM EMPLOYEES OF THE CENTRAL TELEGRAPH OFFICE, NEW DELHI, FOR JUMA PRAYERS.**

1519. \*Mr. Muhammad Anwar-ul-Azim: (a) Is it a fact that the Director General, Posts and Telegraphs, in his Circular No. 13, dated the 2nd July, 1913, issued an order for the grant of one hour's leave to Muslim employees of the Posts and Telegraphs Department for *Juma* prayers on Fridays?

(b) If so, will Government please state whether the above order was violated on the 26th August, 1932, in the Central Telegraph Office, New Delhi? If so, why?

(c) Do Government propose to renew the order referred to at part (a) above?

**The Honourable Sir Frank Noyce:** (a) Yes, but the circular was subsequently modified by instructions issued in Part V of the Director General's Circular No. 20, dated the 28th August, 1913, to the effect that in offices other than those of Heads of Circles and Superintendents of Post Offices, the concession should be allowed as far as possible subject to the condition that the arrangement did not interfere with public business or cause extra expense to Government.

(b) No. There was no violation of the Circular as subsequently modified.

(c) I understand that the circular orders referred to in (a) above, are not always preserved indefinitely and it is possible that they have in some instances been lost sight of. The Director General has undertaken a review of the existing instructions bearing on this subject after which, with any modifications which may be found necessary, they will again be circulated and will also be embodied in the standing orders of the Department.

**PRINCIPLE OF ALLOTMENT OF QUARTERS TO THE SUBORDINATE STAFF OF THE CENTRAL TELEGRAPH OFFICE, NEW DELHI.**

1520. \*Mr. Muhammad Anwar-ul-Azim: (a) Will Government please state what principle is adopted in allotting quarters to the subordinate staff of the Central Telegraph Office, New Delhi?

(b) Is it a fact that the Director, Telegraph Engineering, decided that the clerks who have got their own house at Delhi and the clerks of the administrative branch who have got only day duty have no prior claims to that of the migratory staff and other establishment who were attached to the Instrument room and have got revolving duties including the station scale telegraphists who have got similar duties and are expected to attend the office any time during the day and night?

(c) If the reply be in the affirmative, will Government please state why the clerk, B. Kanhyalall, who belongs to Delhi and resides in his own house at Delhi, has sublet his quarter to one Mr. Daleepsingh, clerk of D. A. G.'s office, and the clerks, Messrs. Moolchand, Ramsaroop, Parashar, and other clerks attached to the administrative branch have been allowed to retain their quarters, whereas the clerks, Messrs. Mohd. Ilyas, Sagarmul, Ramsingh and Musa Khan, attached to the Instrument room and some of whom belong to the migratory staff, have not yet been allotted any quarters?

(d) Will Government please state whether they are aware that the station scale telegraphists of New Delhi are threatened that severe action will be taken against them, if they do not vacate their quarters? if so, why? Are they not supposed to be on duty any time during day and night?

(e) Do Government propose to take immediate steps in the matter?

**Mr. T. Ryan:** (a) to (e). Government have no information on the points raised by the Honourable Member all of which are within the competence of the Head of the Circle. If, however, as the Honourable Member suggests in part (d) of this question, it is a fact that quarters have not been allotted to certain officials who are entitled to them, it is open to them to represent their grievances through the proper official channel.

#### MUSLIM AND NON-MUSLIM TIME-KEEPERS IN THE PUNJAB AND NORTH-WEST FRONTIER POSTAL CIRCLE.

1521. **\*Mr. Muhammad Anwar-ul-Azim:** Will Government please state the number of Muslims and non-Muslims recruited in the cadre of time-keepers in the Punjab and North-West Frontier Postal Circle since 1927?

**The Honourable Sir Frank Noyce:** In all eight persons have been appointed as Time-keepers in the Punjab and North-West Frontier Circle since 1927. Of these, six were Hindus, one was a Muslim and one a Sikh.

#### THE CRIMINAL LAW AMENDMENT BILL—contd.

**Mr. N. N. Anklesaria** (Bombay Northern Division: Non-Muhammadan Rural): Sir, I move:

"That in sub-clause (1) of clause 5 of the Bill, after the word 'force' the words 'knowing or having reason to believe that such copies have been so declared to be forfeited' be inserted."

After the insertion of these words, the clause will read as follows:

"Whoever publishes, circulates or repeats in public any passage from a newspaper, book or other document copies whereof have been declared to be forfeited to His Majesty under any law for the time being in force, *knowing or having reason to believe that such copies have been so declared to be forfeited*, shall be punished," etc., etc.

Those who have had the misfortune or good fortune to appear in such scurrilous and seditious publications as "*The Congress Bulletin*" and those who realise the enormous mischief which such unauthorised publications have been doing throughout the country, especially in my province of Guzerat, will vividly realise the necessity for legislation like that embodied in this clause, and it is a matter of gratification to me that the House has by such a large majority rejected the amendment for its deletion. However, if you read the clause, you find that it is too extensive in its ambit and I am afraid, as it is worded at present, it will bring in its meshes perfectly innocent persons. I think it will be agreed on all sides of the House that we must frame our laws in such a manner that while, if possible, no guilty man should escape, no innocent man should suffer.

Sir, I am moving this amendment with the greater conviction, because all reference to the Indian Penal Code has been done away with in this



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Bill. Had this clause been a part of the Indian Penal Code, then the general exceptions which are in favour of protecting the innocent would have certainly applied. I know that the High Court of Bombay has ruled that the general exceptions in the Penal Code do apply to special laws, but, on the other hand, the High Court of Madras has ruled to the contrary, and, in this state of conflicting authorities, I think a provision ought to be made for the protection of really inadvertent and, therefore, really innocent publications. The Select Committee felt pressed with this consideration of providing protection for inadvertent and innocent publications, but the remedy suggested was, as I had the honour to tell the House yesterday, both inadequate and, as I said yesterday, sub-clause (2) far from serving as a protection to the innocent, was likely to prove a trap to the unwary and would be a source of embarrassment to Government by leading to a conflict of authorities. I shall not dilate on this point today, but I may straightaway state my most serious objection against this clause, and it is this, that it fails to protect that large class of cases in which a person repeats an objectionable and offending passage inadvertently and in total ignorance of the fact that the passage or the document in which that passage occurs has been proscribed by some Local Government or other. To repeat a passage is a perfectly innocent act in ordinary circumstances. School masters repeat passages for their literary merit; religious teachers repeat passages for religious instruction. I say, in ordinary circumstances repetition or publication of a document or a passage is a perfectly innocent act. I will cite the instance of a publication called *Kansa Vadha*, execution of *Kansa*. It is a story from the Bhagwat, the religious scriptures of the Hindus, and it treats of the summary execution of a tyrant. I say, if you read that pamphlet in public in ordinary circumstances, that reading would be perfectly edifying, but, in the present circumstances of the country, I think the pamphlet could be proscribed with perfect propriety. Take another instance of a certain propagandist pamphlet, which is being circulated among my friends, about the Ottawa Agreement. That document is a perfectly misleading document, because it is based not on facts, but on pure imagination. Now, a Governor, Mussolini minded, may choose to proscribe that document, though, as I said, in ordinary circumstances it would be perfectly innocent to read, or repeat or publish that pamphlet.

Now, Sir, this clause, as I said, seeks to make penal an act which would be perfectly innocent in ordinary circumstances. I say, the circumstances of the country do require such legislation, but, I ask, what becomes of the man who repeats or publishes a document in total ignorance of the particular circumstances in which that document becomes objectionable from the point of view of law, and the ignorance, I further presume, is not the result of any fault of the man who repeats or publishes the document. In short, the clause, as it is worded at present, not only does not require a guilty intention in the accused, but also it does not require any knowledge of the circumstances which is absolutely requisite to make the act penal, and, I say, in this failure to embody the requisite knowledge in the accused person, the clause offends against one of the primary principles of criminal jurisprudence. I think the Honourable the Law Member will agree that every definition of a crime really so-called, known to law, must and does contain a proposition as to a state of mind in the accused person. That state of mind may be an intention, may be knowledge, may be malice,

may be rashness, and if I may commit an Irishism, may be negligence. And, indeed, Sir, leaving aside for a moment the theory of "wrongs of absolute liability" to which I shall refer later on, I think it will be agreed on all sides that in every crime the principle is that some psychological element which I have described must enter in order to make the act criminal. That is a principle which is described in very great detail in the leading case of *Tolson* decided in 1889 and reported in 1889, 23, Q. B. D., page 168. My Honourable friend, the Law Member, will find the relevant remarks at page 187 of the Report. That same principle was emphatically reasserted and re-affirmed in the case of *Sherras vs. De Rutzen* six years later, as reported in 1895, 1. Queen's Bench, page 918. That same principle is embodied in our own Indian Penal Code which has served as a model criminal code to many civilised countries of the world. And those who heard the incisive speeches of the Honourable the Home Member in the present debates could not possibly forget the insistence with which he brought to the notice of the House the fact that the offences which are described in the different clauses of the Bill always provide for criminal intent being requisite for making an act criminal. I ask, where is that criminal intent in clause 5? You will find that clause 5 is the only clause in which neither expressly nor by implication the psychological element so requisite to make an act criminal is to be found. In order to save the time of the House, I shall not go through all the clauses to show this, but I may tell the House that that is a fact which will be apparent to anybody who goes through the clauses.

The psychological element of which I have spoken is called by lawyers *mens rea*, and the conception of *mens rea* has been analysed by Professor Clarke in his book "Criminal Liability". He says this *mens rea* requires three elements, namely, a power of volition in the doer of the act which is adjudged to be guilty, secondly, knowledge of the circumstances which make the act criminal, and, thirdly, in certain cases, foresight of the consequences. In this clause the second element, and I consider it the most important element, is wanting. I have been citing these authorities in order to escape from the charge of "a confusion of thought". I would now come to the theory of "wrongs of absolute liability" which was propounded by the Honourable the Law Member in support of his contentions. I know that these wrongs, which are called wrongs of absolute liability, do not require the mental element of which I have spoken. But I also know, Sir, that these wrongs of absolute liability have been said by a great Judge, as you will find in *Sherras vs. De Rutzen*, to fall into three classes, and I will read to you the three classes mentioned in that case. Firstly, cases, not criminal in any real sense, but which in the public interest are prohibited under a penalty; secondly, public nuisances; and, thirdly, cases criminal in form, but which are really only a summary mode of enforcing a civil right. Now, I ask my Honourable friend, the Law Member, in which of these three classes does this clause 5 fall? Is it a trivial offence? It is an offence punishable, be it noted, with six months' imprisonment and a fine of unlimited amount—a most serious offence. It cannot, therefore, come within class 1. Is it an offence which can be called a public nuisance? Of course not. Nor can I say it can possibly fall within class 3 which speaks of cases criminal in form only, but really civil in their nature as regards liability. Within none of these three classes can clause 5 be by any stretch of imagination, brought. I submit, therefore, that the theory of wrongs of absolute liability does not help

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my Honourable friend. Dr. Kenny, at page 43 of Kenny's Criminal Law, speaks of the grounds on which the Legislature in modern times, though very averse to creating wrongs of absolute liability, does think it fit to enact such Statutes, and these grounds are, firstly, that the penalty incurred is not great. The penalty incurred here is six months' imprisonment and a fine of unlimited amount. Secondly, the damage caused to the public by the offence is *in comparison with the penalty* very great; and, thirdly, where the offence is such that there would usually be *peculiar* difficulty in obtaining adequate evidence of the ordinary *mens rea* if a high degree of guilt were to be required. Now, all these three grounds must co-exist according to Kenny in order to make it desirable for the Legislature to enact a fresh "wrong of absolute liability". I say, that none of these three grounds holds good in the present case. Again, Sir, this is a deterrent piece of legislation,—legislation which is being enacted for the purpose of fighting the manifestations of the civil disobedience movement, and it could only be effective if it is deterrent. Therefore, it is advisable to make the fine unlimited as it has been done in the Bill, as I say, with perfect propriety. But if you aim at deterrence, how can you possibly deter a man who is absolutely ignorant of what he is doing? You cannot deter a man when the man does not know what he is doing. The main purpose of your legislation, therefore, will be frustrated by not requiring knowledge or reasonable belief in the accused as stated in my amendment. Sir, to be brief, the failure to embody the principle which I have just stated in this clause is bound to lead to very regrettable results. Just consider how this clause will work in actual practice. Suppose there is a document containing 15 passages, of which passages, Nos. 10, 12 and 14 are objectionable, are seditious or obscene or objectionable on one ground or other, and that document is published first in Madras and the Government of Madras declare it—it has got to be declared according to section 99B, objectionable, specifying the objectionable passages and, on that ground and on that ground alone, proscribing the document. As I said, there are only three objectionable passages in that document containing 15 passages. As you know, Sir, our Government move very slowly. After the period of appeal on that declaration of forfeiture under the Criminal Procedure Code is passed, some person in the Punjab repeats or reads in public one of the passages from the proscribed document which has not been declared in the notification under section 99B as objectionable. What becomes of the man who so repeats? As I said yesterday, if a sub-inspector hears him repeat that passage which has not been declared objectionable by the Local Government issuing the notification of forfeiture, and reports that in the present circumstances of the Punjab, where the passage has been repeated, the particular passage repeated by the accused is objectionable. Well, the local authorities get the Local Government to notify or give a certificate as the Honourable the Law Member insisted upon saying yesterday, that the passage is objectionable. The accused is hauled up before a Magistrate and the accused says: "I do not know English well and I could not possibly know what the Madras Government Gazette says about the passage as I never heard of the thing, and, before I repeated it, I had no knowledge that the passage was objectionable and the document in which it occurs was proscribed. Can any man, with any sense of fairness or justice, fail to allow such a plea? I say, that the poor Magistrate, however fairminded he may be and however

anxious to do justice between man and man, would be forced to convict the accused and disregard the plea which would appeal to all right minded men. To guard against such regrettable result, I have ventured to bring forward this amendment and I think the Honourable the Home Member is too fair and too just not to see the propriety of the course which I have suggested. If, however, the Government are prepared to proclaim that on account of the voting strength behind them they are not prepared to change a single comma from this Bill, then, I say, the talking of people like me in this House would be absolutely useless and it is better to stop it, but, as I say, the Honourable the Home Member is too fair minded not to see the propriety of this amendment. It is a very reasonable amendment and I am quite sure that if the House agrees to that amendment, the Bill will not be reduced to a pale shadow of its former self, which was the condition laid down by the Honourable Member for his acceding to any amendment from this side. I am quite conscious of the difficulty of bringing home to the accused the knowledge of the circumstances in which the publication becomes objectionable. I am quite alive to those difficulties. But to quote the authority on which the Honourable the Law Member relied, Sir John Salmond, that difficulty must be honestly faced and must not be shirked. I say to the Government, if you find difficulty in bringing home knowledge or reasonable belief to the accused, don't shirk the difficulty, but face it honestly. It is not a superhuman difficulty which cannot be faced. Sir, in the 510 sections of the Indian Penal Code we have got more than 30 sections in which these very words "knowing or having reason to believe" occur, and we have never heard—and I think my lawyer friends will bear me out in this—that those words have been creating any difficulty in the administration of the law to which those sections relate. Nor has the Honourable the Home Member pointed out that in any instance, any of the sections of the Ordinance in which the mental element is required has ever been a source of difficulty in the administration thereof. Sir, after all, the difficulty in convicting the guilty should not possibly be allowed to stand in the way of protecting the innocent, for the maxim is "let a hundred guilty escape, but let not one innocent suffer". With these remarks, Sir, I commend my amendment to the House and to Government.

**Mr. B. V. Jadhav** (Bombay Central Division: Non-Muhammadian Rural): Sir, I have great pleasure in supporting the amendment moved so eloquently by my Honourable friend from Guzerat. But I am very sorry to observe that sometimes the awakening comes too late. Had my friend used only one minute in pressing this argument before the Select Committee, it is a foregone conclusion that it would have been accepted because there his vote had a tremendous value.

**Mr. N. N. Anklesaria**: You are talking of the Select Committee? Well there this was the very amendment which I suggested, but I am sorry to say that my Honourable friend among others did not support me. (Laughter.)

**Mr. B. V. Jadhav**: Well, my memory does not bear that out.

**Mr. N. N. Anklesaria**: My memory is perfectly accurate.

**Mr. B. V. Jadhav**: I do not think I did not support any amendment which my Honourable friend moved there.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Order, order. Questions about voting in the Select Committee ought not to be brought on the floor of the House.

**Mr. B. V. Jadhav**: I accept your ruling, Sir. But then my Honourable friend has now thought it proper to appeal to the great truth in the administration of justice that it would not matter if a thousand guilty men were to be acquitted, but one innocent man ought not to be convicted. Sir, I think this sentiment has been relegated to oblivion, because the principle of this Bill is: "let a hundred innocents be convicted, but let not one guilty man be let off". (Laughter.) With all that, Sir, I admire the frankness of my Honourable friend, the Mover of this amendment, and I heartily support him.

**Mr. C. S. Ranga Iyer** (Rohilkund and Kumaon Divisions: Non-Muhammadan Rural): Sir, I rise to congratulate my Honourable friend, Mr. Anklesaria, on the very clear, forcible and closely-reasoned speech that he has delivered. I hope the Honourable the Home Member will not behave, as he has been behaving right through this debate, like what Sheridan called "an allegory on the banks of the Nile"—as obstinate and as head-strong as an allegory on the banks of the Nile. (*An Honourable Member*: "An alligator?") Sir, the Honourable the Home Member has not listened to one single amendment. He has not adopted one single amendment that we have been pressing from this side of the House, and the Honourable the Law Member too has been equally head-strong, rising up to Sheridan's description of obstinacy compared to the "allegory" on the banks of the Nile. Sir, I have no faith in what the previous speaker referred to as to particular happenings inside the Select Committee being adhered to in this House. I was not on the Select Committee and I have no disclosures to make within the precincts of this House. Sir, we have seen that the Honourable the Home Member has not hesitated to lay his unholy hand on the recommendations of the Select Committee. This Bill, as it has emanated from, and been amended by, the Select Committee, has not been left untouched by hand like Mellin's Food. Therefore, Sir, I believe at least once in a way the Honourable the Home Member will be rather kind to this side of the House and listen to the advice of one who does not always persist in obstinately opposing the Government.

**Mr. Goswami M. R. Puri** (Central Provinces: Landholders): Sir, I rise to support this amendment moved by my Honourable friend, Mr. Anklesaria, and I would also like to congratulate him upon the lucid speech that he has made and the solid arguments that he has placed before this House. Sir, this amendment aims at securing that no guilty man should escape and no innocent man should suffer, and that repetition or publication of articles in total ignorance should not be made an offence. Sir, I would submit that the request made by my Honourable friend, the Mover of the amendment, is quite reasonable and I hope the Government will comply with the request of the non-official Members of this House. With these words, I support the motion.

**Mr. S. G. Jog** (Berar Representative): Sir, I would congratulate my friend, Mr. Anklesaria, on the amendment that he has moved. I would like to bring to the notice of the House that this is an amendment which

requires no other reasoning. The very fact that it has emanated from Mr. Anklesaria is quite sufficient in itself that it is a most reasonable amendment. It is not an amendment which has come from this side of the House; it is not an amendment which has come from a man who either belongs to the Congress or belongs to a side with Congress sympathies. Nothing of the sort. It has come from a man whose motives cannot, under any circumstances, be questioned by anybody at least on that side of the House. Sir, so far as the discussions in the Select Committee go— I hope I am not washing dirty linen—my friend, Mr. Anklesaria, was very keen, with regard to any clause, to get that qualified by adding the words at times, “wilfully” or “knowingly” or “having reason to believe” or some such words which would bring home to the accused that he had *mens rea*. In every case we wanted to have that qualifying phrase, “whoever either wilfully does it”, or “whoever knowingly, or having reason to believe, does a particular thing, whoever deliberately does any such thing”,

and so on. All these qualifying words we were always trying to  
 12 NOON. have so as to mitigate the rigour of the law. In some cases we did succeed, and in some cases we did not succeed. This is one of those cases in which we were unable to achieve anything. This clause No. 5 corresponds to section 20A of the Special Powers Act. I must admit and give some credit to the occupants of the Treasury Benches and the Home Member and the Law Member that there is no doubt that there is a slight improvement on the provisions as they existed in the Ordinance. Section 20 of the Ordinance had no such *Explanation* which is added in this new Bill. The power given to the Local Government was not in the Special Powers Ordinance and, to that extent, I must admit that there is some improvement. At the same time, it must be said that the clause, even as it is, will go a great way in harassing many innocent people who probably did not know at the time of publishing a thing that a particular portion of it or the particular thing itself was proscribed. If you look at these Gazettes, you will find that, in the first place, they are published in English and they are published in different provinces. I think every week there is a regular list of things that have been proscribed and in each issue a number of them appear. It is no doubt true that ignorance of law or ignorance of these things is no excuse, but having regard to such a mass of things of proscribed literature that appear in every Gazette, there may be hard cases where a man might not have seen all those lists of proscribed literature. I would also appeal even to the Home Member or even to the Law Member whether they ever care to read all these notifications that appear in the various Gazettes about these proscribed literature. Then they must also take into account what must be happening to other people who are not so much conversant with what is published in these Gazettes. If a thing is published in Madras, does he want that even a man in the North-West Frontier Province should know what actually has taken place in the southernmost corner of India? India is a vast country and what is published in the Gazettes in the southernmost corner of the country should also be known by every man in the North-West Frontier Province. If that is the idea, I think it is far from realities. If you look at this question from this standpoint, there may be many cases which will be open to defence.

The clause, as it runs, says that as soon the man produces a certificate from the Local Government that the so-called portion is objectionable or seditious on some other grounds, that publication becomes seditious and

[Mr. S. G. Jog.]

the only thing the prosecution will have to prove is that it was published, circulated or repeated. But so far as the defence of the accused is concerned, he may have certain defence of innocence or he did not actually know the thing or there may be some extenuating circumstances in which you cannot charge that man with any deliberate motive or any criminal intention or that he had any idea of deliberately breaking the law, or that he was deliberately repeating that particular portion which the Government had proscribed. That element, that idea, that motive may be quite absent in that man and even then the Magistrate can say: "Yes, it is a fact that you did not know about that proscribed literature and you never had any intention of deliberately giving publicity to that proscribed literature, but I am very sorry the Legislators have not made any such provision." The Law Member has not made any such provision for any such defence and that is why the Magistrate will be helpless. I submit, therefore, that to meet such defences, there must be some provision in this clause. The amendment that is suggested by my friend, I think, is quite reasonable. The words "knowing or having reason to believe" will probably meet the case. There is no difficulty for the prosecution to prove these things. After all, in many cases the Judge or the Magistrate has come to the conclusion on the circumstances of the case. The difficulty which the Government probably anticipates is how to establish "knowing or having reason to believe" or his motive. I may suggest that there might be the antecedents of the man or some other circumstances from which it can be presumed or established that that man deliberately repeated or circulated the proscribed literature. But, in the absence of such surrounding circumstances if there is nothing for the Magistrate to come to the conclusion that that publication or recitation was deliberately done, then the only alternative for the Magistrate is to let go that man. But the law, as it is, will be found to be defective and the Magistrate will be helpless.

There is another thing which I might suggest. If the Government are stiff enough not to change even a comma or not to accept the amendment as proposed by my Honourable friend, then I might suggest another thing. Under sub-clause (2), when the prosecution will go before the Local Government for a certificate, naturally the man must be arrested on the report of the sub-inspector or some other police officer that such and such proscribed literature was read or circulated by him. Then the matter goes to the Local Government or the District Magistrate or whatsoever authority may be appointed in this behalf, who will not issue any notice to that man. In other words, he will have no opportunity of saying whether he has anything to say against the certificate. What the Local Government or the District Magistrate will say is, whether that particular passage comes within the objectionable clause and whether it can be certified. But if, in that state of proceedings, an opportunity can be given by the Local Government enabling that man to give an explanation which probably in many cases the Local Government may find to be satisfactory in that case, before giving the certificate, the Local Government may feel satisfied that that man cannot be charged with any direct motive or with an idea of breaking the law or that that particular publication or recitation had nothing to do with the so-called civil disobedience movement. In that case the Local Government may not give this certificate and may excuse that man. If the Government see no reason to accept the amendment of my friend, then I might suggest that some such provision will probably meet such hard cases. But so long as that amendment is not before the

House, I have no other alternative but to support the amendment of my friend. One thing which we must always bear in mind, while framing laws to combat the civil disobedience movement, is that we must see that the laws so framed should stand the test of the other laws. As suggested by my Honourable friend, *mens rea* of the criminal intention is the fundamental thing. No man can be charged for anything if he had no criminal intention, and when we are having this legislation, even according to the Government programme, for three years, we must see that the legislation which they propose to have now must stand all the tests of criminal jurisprudence. Sir, I most heartily support the amendment of my friend, Mr. Anklesaria.

**Pandit Satyendra Nath Sen:** Sir, I have much pleasure in supporting the amendment moved by my friend, Mr. Anklesaria, with whom I seldom see eye to eye in this House where our positions from each other are as distant as the poles. Sir, sub-clause (1) of clause 5, as it stands, is not only wide, but also wild in its scope. As a layman I think that in order to make me liable either of two points at least should be proved against me, namely, that the passage itself which has been repeated or recited by me is in itself objectionable or offending, or that I have knowledge of the fact that the original work has been proscribed and forfeited to His Majesty. Sir, the first point has been rejected by this House. A very valuable suggestion came from an utterly unusual quarter yesterday, namely, from my Honourable friend, Major Nawab Ahmad Nawaz Khan. But my Honourable friend is a layman and my Honourable friend, Mr. S. C. Sen, wanted to give that suggestion a legal shape. When that amendment has been rejected by this House, it has become very necessary that this amendment should be accepted. When that amendment was being discussed in this House yesterday, the Honourable the Law Member rose and spoke against it. I pricked up my ears and, being a stupid man, I failed to catch the exact spirit of his argument. I was anxious to know whether the certificate of the Local Government was subject to scrutiny by the trying Magistrate; and, if I understood the Law Member rightly, I understood him to say that it was subject to such scrutiny. But the next moment he spoke in a different strain and I gathered that the trying Magistrate was simply to ascertain whether the repetition was made by the accused and he was to give his award. He was not entitled to examine and scrutinise the certificate of the Local Government. If that is so, I think every literate man runs the risk of coming within the clutches of the law, because in these busy times no one can be expected to keep a regular account of what publications are proscribed and what are not; and also because they are published only in the Government Gazettes which are hardly available to the ordinary man. Sir, it may be argued that it will be very difficult for Government to prove the knowledge of the accused; but, I think, whatever may be the difficulty, we cannot throw to the winds the cardinal principle of jurisprudence which is so much talked of in this connection that no innocent man should be made to suffer. With these words, I support the amendment.

**Mr. Lalchand Navalrai** (Sind: Non-Muhammadan Urban): Sir, an amendment of this nature stood in my name. By that amendment I wanted to throw the burden on the prosecution to prove the knowledge of the accused as regards the proscription of the book, or passage, or pamphlet. But when I saw that there was a more comprehensive amendment and, at the same time, one which threw a lesser burden on the



[Mr. Lalchand Navalrai.]

prosecution, I dropped my own amendment in favour of Mr. Anklesaria's. By this amendment it is not intended to throw the burden on the prosecution to prove the intention, nor would it be asking for the burden of only knowledge, but even if the knowledge is not proved, they should prove at least that the accused had reason to believe. I think it is very reasonable and I think in all laws we find that either intention or knowledge or reason to believe is always made the gist of the offence. In this case, as the clause stands, it is a bald one. It says that whoever publishes or repeats a passage from a book or a pamphlet which has been proscribed will be punished. Whether that man knows or not, or has reason to believe or not that the offending matter was really proscribed, he would still be punished. Now, in the debate, it has been urged that the proscribed books, etc., are published in the Gazette. They are no doubt published, but the reason has also been given that they are so many that nobody has any time to read them, and, therefore, it cannot be said that the general principle of presumption that everybody knows the law can be thrown on such a person when the publication is proscribed under this clause. It would be absurd from the common sense point of view but, even according to law, any notification that is published has not the effect of law, so that according to law there can be a presumption against him. It is only when a particular law has been enacted that it brings out the presumption that everybody knows the law, but the particular notification of Government will not come under that category. Therefore I am submitting that when the burden has been lessened, the amendment is very reasonable. Otherwise my excuse for speaking on this would be to ask the Law Member a direct question on this point. Suppose that there is an accused before a Court. This accused has really published or repeated a passage, but Government come to know that that man had really no intention or any ulterior motive. He was also absent from India and has come back quite recently and he did not know of the notification of proscription and he had no reason to believe it. Supposing there is such an accused, will Government ask that the man should be punished or will they say that this clause does not apply? If Government say that this clause would not apply to that man, they would hold that this man should not be prosecuted and I would be satisfied. But, on the general principle, what would be the reply to such a case? I submit that a direct reply should come from Government. Therefore, I am submitting that, in my humble opinion, Government will not hold or give that reply direct to this clause, as it stands, or, as it is enacted, unless certain words are put into it of the nature of this amendment. Sir, I support the amendment.

**Mr. Amar Nath Dutt** (Burdwan Division: Non-Muhammadan Rural): Sir, I also join in the chorus of congratulation to the Honourable the Mover of this amendment. I remember, two years ago when I met my learned friend for the first time in the Western Hostel, he was eager to form His Majesty's Opposition here with my esteemed friend, Sir Hari Singh Gour, as the Leader; but there was some difference of opinion and Diwan Bahadur Rangachariar became the Leader and so he did not join us. Now, I find that the advent of our new Leader, Sir Hari Singh Gour, has also brought him over to our side. This is as it should be for he represents the constituency from which, Sir, your predecessor in office came, and it is but right that he should follow in the footsteps of that great

predecessor of yours. I supported the deletion of the whole clause, because I felt that there was no necessity for it; but having failed in our attempt to have this clause deleted, the only other alternative that I find can be adopted in the interests both of the Government and of the Governed was to have the clause modified in the way in which my Honourable friend, the Mover of the amendment, wants to have it modified. It has been said by my Honourable friend, Mr. Jog, whom I do not see here now, that this amendment is a very reasonable one, as if the other amendments were not. I do not agree with him there. Unless an amendment is reasonable, I do not think any reasonable man will support it. There may be divergence of views and we may be looking at things from different standpoints. In spite of that, when you find that every amendment has its supporters—and there were more than one—we should not characterise a particular amendment as the only reasonable one. Then, again, I do not agree with my Honourable friend, Mr. Jog, when he says that his motive cannot be questioned. Nobody has questioned motives. On the other hand, I would ask him to accept it and that he should not question the motives of any of the Honourable Members who have moved several amendments. No one had any motive, even my Honourable friend, the Law Member, when moving his amendments—save and except the interest of his country to serve and the Government of the country. As I have already said that our angle of vision may be different, but nobody can question the honesty and sincerity of purpose of the Members of the Treasury Benches as well as Members of the Opposition. With respect to this clause and the amendment, I submit that the same reasons have been advanced for enacting sub-clause (2) and I do not agree with that for reasons which I have said in another amendment to a clause of like nature. Be that as it may, I submit that this amendment should be accepted by the Honourable the Home Member on this very ground if I can convince him that the reasons for which he wanted to enact this clause do not exist. He said yesterday that people who took to civil disobedience methods, the first thing that they did was without any reason whatever to begin to read passages from proscribed literature. If they do it for the fun of the thing, I say, why do you not leave them severely alone?

**The Honourable Mr. H. G. Haig** (Home Member): I did not say yesterday that they did it without any reason. The reason obviously is to spread seditious utterances.

**Mr. Amar Nath Dutt**: In that case my reading of these facts is a little different from the Honourable Member's. I think in many cases simply for the fun of it and to annoy the officers they do it. I may give instances of people crying "Bande Mataram" whenever they see a man who would not like that cry. It is no doubt annoying, but if the man whom he intends to annoy only exercises a little self-restraint which is expected of responsible men, I think in that case the man who cries will be tired of doing so. As I was saying, I disagree with my Honourable friend over there when he says that this will spread sedition. It is misgovernment only that can breed real sedition leading to revolutionary methods. It is oppression and tyranny that is the cause of real sedition and sedition, in mere talk or out of mere fun to annoy a particular Government officer or a particular citizen who wants to show himself up as a very very loyal citizen for some ulterior motive, I beg to submit, is not real sedition. That being so, I think if responsible men will have a little amount of patience and allow these men to follow their own methods,

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which after all does not injure Government or anybody else for the matter of that, I think there will be no such cries and no such things done for the sake of fun for any length of time and the thing will be at an end. But if you want to put a stop even to these things in that way, I think you ought to accept the very reasonable amendment for the sake of making the law a real law and not a negation of all laws. It has been argued that ignorance of law is no excuse. But that principle does not extend to executive acts and the Honourable the Home Member said that these are executive acts and these executive acts he wants to legalise. Publication in a Gazette of proscribed literature is an executive act and I am aware of no system of jurisprudence which compels us to know of all executive acts that may be described in that precious official document known as the Gazette of a particular Province or the Gazette of India. I well understand the basis of the principle of ignorance of law is no excuse, but certainly there is no such principle as ignorance of an executive act or an executive fiat is also no excuse. In fact, it will be extending the principle too far.

Then, my friend has tried to convince the other side that there should be some test of criminal jurisprudence in a law like this. I submit I am not so hopeful as my friend, because for the last five or six days we have seen that test of criminal jurisprudence has not appealed to them. That being so, I would invite every elected Member on this side of the House to come over to our side, to once at least forget in their lives that they have not always to please the Government but that at times they have to look to the interests of the people and to vote for this amendment which I support wholeheartedly.

**The Honourable Sir Brojendra Mitter** (Law Member): Sir, I want to dispel one misconception with regard to the principle which was enunciated by Mr. Jog and repeated by my friend, Mr. Amar Nath Dutt, that ignorance of law is no excuse. That principle has no application whatsoever to this case, because notification of proscription is a matter of fact, and not a matter of law. What is the underlying principle of clause 5? It is this, that no one should publish, circulate or repeat any seditious matter; that is the thing which the Government want to stop. Paraphrasing this clause I would read it like this: "Whoever publishes, circulates or repeats in public a seditious passage from a proscribed book shall be punished". That is not exhaustive, but, for the purpose of my argument, I am confining myself to sedition and not referring to promotion of class hatred. What is sought to be introduced into this clause is this, that he can be punished only if it can be proved that he knows that the book had been proscribed. In support of that argument, Mr. Anklesaria urged that the clause, as it runs, might rope in innocent persons. I contest that proposition. What we are aiming at is the stoppage of repetition of seditious matter. If a man repeats seditious matter, why do you presume he is innocent?

**Mr. N. N. Anklesaria:** Who calls it seditious?

**The Honourable Sir Brojendra Mitter:** I am coming to that. The question is asked—who calls it seditious? The Local Government calls it seditious. That is, Sir, as I tried to explain yesterday, not merely the opinion of the Local Government, but the opinion of the Local Government

is subject to the scrutiny of the High Court. An order of proscription may be set aside by the High Court on the ground that the matter complained of is not seditious. Therefore, we start with this that when in the opinion of the Local Government, which is subject to the scrutiny of the High Court, a matter is seditious, that must be taken to be seditious. Start from that point. A man goes and repeats a seditious passage, and he is punished under this clause. Why should you say that we are punishing an innocent person? A man may not know that a book has been proscribed, but certainly he is presumed to know what is seditious and what is not seditious, because that is a question of law. That principle that ignorance of law is no excuse does apply to the case where a man has to judge whether what he is repeating in public is seditious or not seditious. Therefore, the argument that an innocent person may be punished under this clause does not hold good. And how does the amendment improve the situation? That person either knows that a book has been proscribed or he does not. How does his absence of knowledge that it has been proscribed make him any more innocent than what he was before? If he is repeating a seditious passage, the offence is in that repetition, not in his knowledge that the Government have declared it objectionable. That has got no bearing on the nature of the passage. If there be inherent sedition in the passage, it is immaterial whether it is proscribed or not. Supposing it is not proscribed, and a man repeats the seditious passage, is he not liable for prosecution for sedition? Sir, instead of prosecuting a person for sedition, we are providing in this clause that when a person is guilty of sedition, he shall be taken before a Magistrate and the certificate of the Local Government will be conclusive on the point that the passage is seditious. That is, we are substituting executive opinion, which is subject to judicial scrutiny, for the opinion of the Magistrate before whom a man is prosecuted. That is all that this clause proposes to do.

Then my friend Mr. Anklesaria's argument was that we might be penalising a man for repeating a passage which in ordinary circumstances would be perfectly innocent. I submit, Sir, there is no warrant for that supposition, because what in ordinary circumstances would be perfectly innocent would not be a case of repetition of what is intrinsically and inherently seditious . . . .

**Mr. N. N. Anklesaria:** I cited the instance of *Kansa Vadha*, the execution of *Kansa*.

**The Honourable Sir Brojendra Mitter:** Then his next argument was that this clause did not require guilty intention and, therefore, the clause offended against one of the primary principles of criminal jurisprudence. In elaborating that argument, he dealt with the question of *mens rea*. In this House I have noticed there is a good deal of misconception about *mens rea*. There is no such thing as *mens rea*, as known in English Common law, existing in the Criminal Law of India. Sir, in support of this proposition, which to many of my friends may seem astounding. I shall quote a passage from Mayne's Criminal Law. Dealing with *mens rea*, he says this:

"It is an almost immemorial commonplace of English judges to state that there can be no conviction on a criminal charge, unless the prisoner has a *mens rea*, or guilty mind."

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Then, after quoting some old authorities, he goes on to say:

"Its meaning was discussed with great elaboration in two English cases. . ."

He gives those cases:

"In the last case, Stephen, J., with characteristic independence, expressed an opinion that the maxim itself was not of much practical value, and was not only likely to mislead, but was absolutely misleading; and, in this opinion, Manisty, J., who agreed with him in nothing else, most heartily concurred. When the maxim originated, criminal law practically dealt with common law offences, none of which were defined. The law gave them certain names, such as treason, murder, burglary, larceny, or rape, and left any person who was interested in the matter to find out for himself what these terms meant. To do this he had to resort to the explanations of text-writers and the decisions of judges. There he found that the crime consisted, not merely in doing a particular act, such as killing a man, or carrying away his purse, but in doing the act with a particular knowledge or purpose. The super-added mental state was generalized by the term *mens rea*, and the assertion that no one was a criminal unless he had the *mens rea*, really came only to this, that nothing amounted to a crime which did not include all its necessary ingredients. . . . The maxim that every criminal must have a *mens rea* was generally true, but was always valueless. The real question was, whether in each case the accused had the particular *mens rea* which proved him a criminal."

After discussing the meaning of the expression *mens rea*, Mayne goes on to say:

"Under the Penal Code such a maxim is wholly out of place. Every offence is defined, and the definition states not only what the accused must have done, but the state of his mind with regard to the act when he was doing it. It must have been done knowingly, voluntarily, fraudulently, dishonestly, or the like."

Therefore, to do a thing knowingly is not necessary; in some cases mere voluntary action is *mens rea*. Sir, when a man goes and repeats a seditious passage, does he not do it voluntarily, or does he do it involuntarily? As knowledge is in certain offences an essential element in *mens rea*, so, voluntariness in certain other offences is an essential element in *mens rea*. Here we are dealing not with an offence which has knowledge as an essential element, but of which voluntariness is an essential element. Where then this clause offends any principle of criminal jurisprudence I fail to see. The whole confusion has arisen from the English conception of the expression *mens rea* without reference to its application to Indian offences under the Indian Penal Code and other criminal laws. That is the basis of the whole misconception. Knowledge or criminal intention is not a necessary ingredient in every offence. In many offences voluntariness is quite enough. Let me give this illustration. A man is in possession of an unlicensed firearm. He may or may not know whether license has been taken out for that particular weapon. It is not necessary that he should know it,—that he should know that it is unlicensed. He may not have any criminal intention of making an illegal use of that weapon. Not necessary. The mere fact that he voluntarily possesses an unlicensed revolver is an offence under the law. In that case that voluntary possession is the *mens rea*. No intention is necessary, no knowledge is necessary. I will give another instance. Mr. Ranga Iyer comes from Europe, and lands in Bombay with dutiable goods which he has not declared. He may or may not know that the particular thing—say, six pairs of silk stockings that he has got in his suit case is dutiable. His knowledge is immaterial. The very fact that silk stockings are dutiable is quite enough to constitute an offence. No improper intention may have been in his mind. (Laughter.) He may not have any knowledge of anything, but nevertheless, he will be

guilty of an offence. So much for *mens rea*. My learned friend, Mr. Anklesaria, said, you cannot deter a man from doing what he does not know to be wrong. What is the thing which he has got to know according to the amendment? He has got to know that a thing has been proscribed, not that what he is repeating is right or wrong. That is left to his own judgment. So, his knowledge or his ignorance of the notification in the Gazette has no bearing upon his judgment as to whether the passage which he is repeating is seditious or not seditious. I do not follow that part of the argument of my learned friend. My Honourable friend gave an illustration of a book containing 15 passages, three of which are objectionable and the Madras Government declares these three passages, proscribes them. Ordinarily, when a book is proscribed, the book is proscribed, not that passages are culled out from that book.

**Mr. N. N. Anklesaria:** The whole book is proscribed.

**The Honourable Sir Brojendra Mitter:** Then he says, a man reads in public a passage not declared. The premise is wrong, because passages are not declared, the book is declared.

**Mr. N. N. Anklesaria:** Not declared under section 99B of the Criminal Procedure Code, because they have got to declare what is the seditious matter.

**The Honourable Sir Brojendra Mitter:** I was thinking of the notification of proscription. In the notification, a book would be proscribed, no passages will be mentioned there,

**Mr. N. N. Anklesaria:** Because the grounds have to be mentioned in the notification.

**The Honourable Sir Brojendra Mitter:** The ground mentioned would be that there are passages in the book which are seditious.

**Mr. N. N. Anklesaria:** Objectionable passages have got to be specified in the notification under section 99B.

**The Honourable Sir Brojendra Mitter:** I venture to disagree.

**Mr. S. O. Mitra** (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): They are not done as a matter of fact.

**Mr. N. N. Anklesaria:** The matter has to be specified.

**The Honourable Sir Brojendra Mitter:** Section 99A says:

"Where any newspaper, or book . . . wherever printed, appears to the Local Government to contain any seditious matter, or any matter which promotes or is intended to promote feelings of enmity or hatred between different classes of His Majesty's subjects, that is to say, any matter the publication of which is punishable under section 124-A, or section 153-A, of the Indian Penal Code, the Local Government may, by notification in the local official gazette, stating the grounds of its opinion, declare every copy of the issue of the newspaper containing such matter.....to be forfeited to His Majesty."

All that the Local Government has to do is to state the grounds of its opinion, and it would be a statement of the grounds of its opinion if it says that this book contains matter which promotes class hatred, or this book contains matter which is seditious under section 124A. That would

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be quite enough. It is not necessary to quote passages, and it is not usual to quote passages. Then, my friend went on to say that the sub-inspector in the Punjab reports that a certain passage was repeated which was not declared by the Madras Government as seditious. Sir, as I have said, the Madras Government has not declared any passages and if the sub-inspector brings to the notice of the Local Government a seditious passage in that book and the Local Government issues a certificate, as we are contemplating, then the presumption would be that that particular passage is an objectionable passage. Sir, the order of proscription by the Madras Government was subject to the scrutiny of the Madras High Court. If the order stands, the presumption would be either that the Madras High Court did not set aside the order or that no one thought it worth his while to take the matter to the High Court to have the order set aside. Now, the order stands. If the order stands, the passage which the sub-inspector considers to be objectionable is brought to the notice of the Punjab Government. The Punjab Government may take the opinion of its legal advisers. It may come to the conclusion that it is not objectionable or it may come to the conclusion that it is objectionable. If it comes to the latter conclusion, it issues a certificate on the basis of which a prosecution can be launched. Where is room for any confusion? Where do these passages 10, 12 and 14 come in? The only passage which is material is the passage which was brought to the notice of the Punjab Government and which was embodied in a certificate. Then, Sir, I come to the last point of my learned friend, Mr. Anklesaria. He says: "Oh, the Government may have difficulty in proving knowledge, but you must honestly face it". In ordinary cases I would certainly accept that advice, but in this case knowledge is absolutely impossible of proof. You are prosecuting a man for repeating a seditious passage from a proscribed book. He was liable to prosecution for sedition, but you are not taking that protracted course of a regular trial under section 124A. You are taking the shorter course. For that shorter course you go to the Local Government for its opinion whether the passage is seditious or not. If you are forced to prove that the accused had knowledge of the notification declaring the book to be forfeited in most cases the prosecution would fail, because such proof is impossible. A man goes to a street corner and reads a seditious passage. How is anybody in the Government to know whether that man had knowledge of the fact of proscription or not. Therefore to require proof of this fact would really mean defeating every prosecution under this clause. It would be frustrating the object of the clause. When you are enacting any law, you must enact it in such a way that its wording does not frustrate its object. If you introduce the element of knowledge here, you will be frustrating the object of this clause. I concede that that would not have been a conclusive answer provided there were inherent risks in the clause, risks to which an ordinary innocent person might be exposed. I have shown that an ordinary citizen who repeats an innocent passage is not exposed to any risk. An ordinary citizen who repeats a seditious passage cannot claim immunity to the same extent and, therefore, in order to bring that man to justice who has repeated a seditious passage, you should not enact a law which would make prosecution futile. Sir, the amendment would render the clause futile. I oppose the amendment.

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**Mr. S. G. Mitra:** I support the amendment of my friend, Mr. Anklesaria. I admit that there has been confusion of thought, but I am afraid the

learned Leader of the House might have intentionally tried to confuse the House. He says that whoever repeats a seditious passage only, comes under the purview of this clause. What is necessary for a conviction? What is required to be proved for conviction under this clause is the publication and the only other element necessary to be proved is that it is from a newspaper, book or other document which has been proscribed and where this passage occurs. Where does the Honourable the Leader of the House find that the person who committed the offence was repeating a seditious passage? It is the Government in their executive authority who styles it as a seditious passage. For the conviction of the person only two elements are necessary. It is publication and that it occurred in a proscribed newspaper or book or document. Then the Leader of the House was trying to confuse us by saying that because Government in their executive function said that it was seditious, so it must be taken for granted that the man was knowingly repeating a seditious passage. Here I join issue with him.

**The Honourable Sir Brojendra Mitter:** I did not say that.

**Mr. S. C. Mitra:** That is what I understood the Law Member to say.

**The Honourable Sir Brojendra Mitter:** I may not have expressed myself clearly.

**Mr. S. C. Mitra:** That is my misfortune. I find in this clause there is no necessity of proving that the passage is seditious. It is merely the publication and that the passage was quoted from a book which has been proscribed by Government are the only two facts that are to be proved. I shall be glad to be enlightened by the Honourable the Home Member when he makes a reply—whether in the Court there will be any necessity of proving that the passage was seditious beyond the fact that the sub-inspector found it to be seditious and the Government on that report accepted the passage as seditious. Very ingeniously the Law Member said that when the book itself was proscribed, there were provisions to move the High Court for annulling that proscription. The book was proscribed. It was in the interest of the author to make an appeal to get the order annulled. The offender, under the present clause, was not a party when the book was proscribed. Why should he take it upon himself to fight against the proscription and go to the High Court.

**The Honourable Sir Brojendra Mitter:** If Mr. Mitra will excuse me for a minute, I think he is not right in saying that it is only the author of the book who can go up to the High Court. Anybody who has got a copy of the book can go up to the High Court. Mr. Mitra will find that in the *Comrade* case, Mr. Muhammad Ali's case. He took the case to the High Court on the ground that he had a copy in his possession and that copy had been forfeited to His Majesty.

**Mr. S. C. Mitra:** That may be so, but our contention in this case is this. If a man committed any offence unwittingly, it is not expected of  
 1 P.M. this gentleman, who is not even aware of that order of forfeiture or proscription, to go to the Court. There may be a right of



[Mr. S. C. Mitra.]

anybody to fight against any orders of forfeiture. Sir, every day so many books, leaflets, documents and newspapers are being forfeited, and if it be the business of anybody to fight in each case then I think their hands will be too full. But our case is that the offender here under this clause, if he is not even aware of that forfeiture, should be in that case protected. So it is not a question of a man repeating a seditious passage.

Then, as regards the other point, I could not understand why, if an article is seditious, the man should not be prosecuted under the seditious section and why he should be denied trial by a judge and which is appealable in the regular way, and why this short cut to get the man convicted should be taken recourse to. That question has not been answered by only saying that it is a shorter route. There may be a shorter route, but it is liable to great abuse and to denial of justice to a man. As regards the question of *mens rea*, I think my Honourable friend, Mr. Anklesaria, argued it very lucidly and made it clear that there is that difference between the English and the Indian law that under the English law the guilty mind has to be proved, but in Indian Law unless the section specifically provides for *mens rea*, it is not a necessary element for conviction, but that is no argument why we should demand in this clause to include *mens rea* as a necessary element, and there is no reason why these words should not be added to prove the guilty mind of the offender. Sir, with these words, I support the motion of my friend, Mr. Anklesaria,

**The Honourable Mr. H. G. Haig:** Sir, I am not sure that it is really incumbent on me to say anything after the extremely exhaustive exposition of the law given by my Honourable colleague, the Law Member. The Honourable Members opposite have expressed their great admiration, which I share, for the speech of my Honourable friend, Mr. Anklesaria. It was learned, it was eloquent and it was long—three very commendable qualities in speeches on this debate. We have also been exhorted by my Honourable friend, Mr. Amar Nath Dutt, to be patient. He suggested that in enacting this clause the Government were showing some impatience. Well, I think, Sir, as to that charge, that while the members of Government have sat here day by day and listened to these elaborate debates on points, which I confess have often seemed to me small points, they cannot be accused of undue impatience. This particular point, though it has given rise to most elaborate legal argument, appears to me, to my untrained intelligence, to be a very simple one. The question is whether when a document has been proscribed and its proscription has been published in the Government gazette, it is reasonable to assume that a person who repeats passages from that document is aware that it has been proscribed. I submit that in the first place the document is a seditious document or it would not have been proscribed, and anyone who proposes to repeat a passage from such a document has got to exercise reasonable caution. There is no difficulty in satisfying himself whether in fact it has or has not been proscribed; and in fact, as Honourable Members are perfectly well aware, if this provision were inserted in the clause and it were necessary for the prosecution on every occasion to prove that the accused actually knew that the book had been proscribed, then they would be asking the prosecution to prove an impossibility. The clause would be made entirely ineffective. Sir, I oppose the amendment.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in sub-clause (1) of clause 5 of the Bill, after the word 'force' the words 'knowing or having reason to believe that such copies have been so declared to be forfeited' be inserted."

The motion was negatived.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That clause 5 stand part of the Bill."

**Sir Abdur Rahim** (Calcutta and Suburbs: Non-Muhammadian Urban): Sir, I want to speak on the motion that clause 5 stand part of the Bill.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Yes.

**Sir Abdur Rahim**: Sir, I wish to oppose this motion. This is a typical clause and I wish to make it clear to the House what the real nature of the entire Bill is, from the wording and from the scope of this clause. Amendment after amendment has been moved and rejected. Sir, I think I am in order?

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): If you restrict yourself to clause 5.

**The Honourable Mr. H. G. Haig**: Sir, on a point of order,—have we not already had a full debate on clause 5 as a whole? Is it in order that we should have a second debate on the clause as a whole?

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): It is obvious that Honourable Members are entitled to express their views on every question that has to be put to the House and on which they have a right to vote. The Chair recognizes the force of the argument which the Honourable the Home Member has advanced, *viz.*, that that would lead to repetition. So far as possible, the Chair will take care that repetition does not take place. It has to be remembered that when a question has to be put to the House and it has to be voted upon, discussion on it must be held to be in order. The fact that the original amendment asking for the repeal of this clause was discussed and voted upon cannot take away the right to discuss why the clause should or should not be allowed to stand part of the Bill.

**Sir Lancelot Graham** (Secretary, Legislative Department): Sir, might it not be desirable in that case either to cut short the debate on the motion that the clause be omitted, or to treat that motion as a purely negative motion and disallow it, instead of having a debate on the same question twice over?

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): That may be the fault of the Rules and Standing Orders or the practice which has prevailed. As a matter of fact there has hardly been any controversial piece of legislation before this Assembly since it was constituted during the discussion on which amendments for the omission of clauses have not been held to be perfectly in order and allowed to be discussed. (Applause.) This practice has prevailed all these years and the Chair has no intention of making any change in that procedure.

**Sir Abdur Rahim:** Sir, I do not propose to take up much of the time of the House. The amendments have been disposed of one after the other and we have now come, therefore, to the clause as it stands. I said that this is a typical clause and it really reveals the object with which it is to be enacted and this is the object throughout the entire Bill. Now, what I wish, first of all, to point out is that the clause purports to define the jurisdiction of the executive on the one hand and of the Court on the other. Let us see what is the jurisdiction of the executive as laid down in the clause. The jurisdiction of the executive is that it can declare any book, newspaper or a document to be objectionable and, therefore, to be proscribed. What happens afterwards, I am not concerned with as I am concerned with the scope of this clause. The man whose book or document or newspaper has been proscribed or any other person who takes an interest in the matter can refer the matter to the High Court. That is another matter. But it is the jurisdiction of the executive under this clause to pronounce upon the nature of the publication. Now, what is left to the Court under this clause? The Court has only to find that any passage from that book or newspaper or document has been recited or repeated in public. If that is found, that is quite enough for the Court and it must, therefore, convict the person who has repeated that passage. It does not pronounce, according to this clause, upon the character of the passage that is repeated. If the fact is proved that a man has recited a passage from a prohibited publication, he is guilty and is liable to be sent to jail. Now, supposing a newspaper, for instance, is proscribed. As Honourable Members know, a newspaper contains all sorts of matter. Some of it may be objectionable and, so far as it is objectionable, we must take it for granted that the pronouncement of the executive is conclusive as the law requires. But there are other passages in a newspaper which are not objectionable. Still, according to the interpretation that the Court is bound to put upon this clause, any passage, however innocent or laudable, cited from a proscribed newspaper, is liable to be brought under its operation and the man can be sentenced.

I do not want to repeat the arguments that have been addressed to this House as regards the question of *mens rea* or guilty knowledge or any element that ordinarily goes to constitute a crime, but I do challenge the statement of the Honourable the Law Member that the Indian Penal Code does not recognise the guilty mind as a necessary ingredient of an offence. There may be some particular cases, individual cases, in which that element need not be present, but throughout the Indian Penal Code surely that is the most important element. In almost every offence of any character it is necessary to find out whether there has been guilty knowledge or not. Malicious intention or unlawful object or some such element has to be found. I do not know how a clause like this came to be drafted. It simply means that the jurisdiction of the Court to pronounce upon the real guilt of a person is taken away and everything is left to the executive. The question is whether the House would accept a clause of this character.

**The Honourable Mr. H. G. Haig:** Sir, having been present throughout the debate on this clause, I think I am right in saying that all the points raised by the Honourable the Leader of the Independent Party have already been fully discussed and replied to and, therefore, I do not propose to give any further reply.

**Mr. President:** The question is:

"That clause 5 stand part of the Bill."

The Assembly divided:

AYES—54.

Abdul Hye, Khan Bahadur Abul  
Hasnat Muhammad.  
Acott, Mr. A. S. V.  
Ahmad Nawaz Khan, Major Nawab.  
Allah Baksh Khan Tiwana, Khan  
Bahadur Malik.  
Amir Hussain, Khan Bahadur Saiyid.  
Anklesaria, Mr. N. N.  
Bajpai, Mr. G. S.  
Phore, The Honourable Sir Joseph.  
Bower, Mr. E. H. M.  
Burt, Mr. B. C.  
Dalal, Dr. R. D.  
DeSouza, Dr. F. X.  
Dudhoria, Mr. Nahakumar Sing.  
Dunn, Mr. C. W.  
Dutt, Mr. G. S.  
Fazal Haq Piracha, Shaikh.  
Fox, Mr. H. B.  
Graham, Sir Lancelot.  
Greenfield, Mr. H. C.  
Gwynne, Mr. C. W.  
Haig, The Honourable Mr. H. G.  
Hezlett, Mr. J.  
Hudson, Sir Leslie.  
Ishwarsingji, Nawab Naharsingji.  
Ismail Ali Khan, Kunwar Hajee.  
James, Mr. F. E.  
Jawahar Singh, Sardar Bahadur  
Sardar.  
Mackenzie, Mr. R. T. H.

Macqueen, Mr. P.  
Meek, Dr. D. B.  
Metcalf, Mr. H. A. F.  
Mitter, The Honourable Sir  
Brojendra.  
Moore, Mr. Arthur.  
Morgan, Mr. G.  
Mukherjee, Rai Bahadur S. C.  
Nayudu, Rao Bahadur B. V. Sri Hari  
Rao.  
Nihal Singh, Sardar.  
Noyce, The Honourable Sir Frank.  
Rafiuddin Ahmad, Khan Bahadur  
Maulvi.  
Raghubir Singh, Kunwar.  
Rajah, Rao Bahadur M. C.  
Rau, Mr. P. R.  
Ryan, Mr. T.  
Sarma, Mr. R. S.  
Schuster, The Honourable Sir  
George.  
Scott, Mr. J. Ramsay.  
Sher Muhammad Khan Gakhar,  
Captain.  
Singh, Mr. Pradyumna Prashad.  
Smith, Mr. R.  
Sorley, Mr. H. T.  
Tottenham, Mr. G. R. F.  
Wajihuddin, Khan Bahadur Haji.  
Yakub, Sir Muhammad.  
Zulfiqar Ali Khan, Sir.

NOES—40.

Abdoola Haroon, Seth Haji.  
Abdul Matin Chaudhury, Mr.  
Abdur Rahim, Sir.  
Azhar Ali, Mr. Muhammad.  
Badi-uz-Zaman, Maulvi.  
Chandi Mal Gola, Bhagat.  
Chetty, Mr. R. K. Shanmukham.  
Chinoy, Mr. Rahimtoola M.  
Dutt, Mr. Amar Nath.  
Goar, Sir Hari Singh.  
Gunjal, Mr. N. R.  
Ibrahim Ali Khan, Lt. Nawab  
Muhammad.  
Isra, Chaudhri.  
Jadhav, Mr. B. V.  
Jha, Pandit Ram Krishna.  
Jog, Mr. S. G.  
Lahiri Chaudhury, Mr. D. K.  
Lalchand Navalrai, Mr.  
Misra, Mr. B. N.  
Mittra, Mr. S. C.

Mody, Mr. H. P.  
Pandian, Mr. B. Rajaram.  
Pandit, Rao Bahadur S. R.  
Parma Nand, Bhai.  
Patil, Rao Bahadur B. L.  
Phookun, Mr. T. R.  
Puri, Mr. Goswami M. R.  
Ranga Iyer, Mr. C. S.  
Rastogi, Mr. Badri Lal.  
Reddi, Mr. P. G.  
Reddi, Mr. T. N. Ramakrishna.  
Sarda, Diwan Bahadur Harbilas.  
Sen, Mr. S. C.  
Sen, Pandit Satyendra Nath.  
Singh, Kumar Gupteshwar Prasad.  
Sitaramaraju, Mr. B.  
Sohan Singh, Sirdar.  
Thampan, Mr. K. P.  
Uppi Saheb Bahadur, Mr.  
Ziauddin Ahmad, Dr.

The motion was adopted.

Clause 5 was added to the Bill.

The Assembly then adjourned for Lunch till Thirty-Five Minutes Past  
Two of the Clock.

The Assembly re-assembled after Lunch at Thirty-Five Minutes Past Two of the Clock, Mr. President (The Honourable Sir Ibrahim Rahimtoola) in the Chair.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That clause 6 stand part of the Bill."

**Mr. B. V. Jadhav:** Sir, I beg to move:

"That clause 6 be omitted."

As originally drafted, clause 6 was to introduce an amendment in section 505 of the Indian Penal Code. There, in that section, in sub-section (b), the words "whereby any person may be induced to commit an offence against the State or against the public tranquillity" were to be omitted and in their place "or hatred or contempt towards any public servant or any class of His Majesty's subjects" were to be substituted. That was the original clause as proposed in the original draft of the Bill. In the Select Committee, every reference to the Indian Penal Code was dropped and, therefore, the clause, as is now before the House, was substituted for the original clause 6 of the Bill. The clause says:

"Whoever makes, publishes or circulates any statement, rumour or report which is false and which he has no reasonable ground to believe to be true, with intent to cause or which is likely to cause fear or alarm to the public or to any section of the public or hatred or contempt towards any class of public servants or any class of His Majesty's subjects shall be punished, etc., etc."

I want to point out that "any class of public servants or any class of His Majesty's subjects" do come under the expression "any section of the public" and, therefore, they are not required here. I congratulate the Home Member and the Law Member for dropping the protection granted to any public servant in the original draft—hatred or contempt towards any public servant—and they have now retained hatred or contempt towards any class of public servants. But I maintain that any class of His Majesty's subjects is not at all required here. This Ordinance Bill has been brought forward for the sake of affording protection to Government servants and the Bill, as returned from the Select Committee, provides protection to a class of public servants; but then there is no necessity of any class of His Majesty's subjects because any section of the public is protected by clear words and, therefore, any class of His Majesty's subjects is superfluous. I maintain that the original provision in the Indian Penal Code is quite sufficient for the protection of Government servants and everybody. Any statement, rumour or report which is prejudicial to them will bring the offender under the clutches of the law and he will be adequately punished under the Indian Penal Code and, therefore, there is no necessity for this new clause which is very stringent and brings in many confounding things. As I have just pointed out, there is no necessity for making any mention about any class of His Majesty's subjects, because His Majesty's subjects are generally protected by the Indian Penal Code. Some protection was required towards a class of public servants no doubt, because we have seen that in the non-co-operation movement certain services were singled out and contempt was shown towards them . . . .

**Sir Muhammad Yakub** (Rohilkund and Kumaon Divisions: Muhammadan Rural): But you moved a similar amendment about that clause also—protection of some servants?

**Mr. B. V. Jadhav:** Therefore I maintain that the clause is very wide and does not deserve to be accepted by this House. At the same time I shall point out that the Bill, as originally drafted, was an amendment to the Indian Penal Code, and, therefore, the Exception to section 505 would have automatically applied to the new section; but here although some words have been imported in the body of the clause, I do hold that the Exception as given in section 505 of the Indian Penal Code is more liberal and, therefore, ought to have been introduced here. I, therefore, propose that clause 6 be omitted.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Amendment moved:

“That clause 6 of the Bill be omitted.”

**Kunwar Raghubir Singh** (Agra Division: Non-Muhammadan Rural): Sir, I beg to oppose the amendment moved by Mr. Jadhav. I am surprised that he being a Member of the Bombay Government at one time should bring forward such an amendment as this, namely, to omit the whole clause which is really in the interests of Government.

**Sir Muhammad Yakub:** He is not a Member of the Government now.

**Kunwar Raghubir Singh:** I was recently reading a book called *Storia Do Mogor* by Manucci. There I found how Prince Aurangzebe spread false rumours to prejudice the cause of Prince Dara. Therefore, it is the duty of every wise Government to see that false rumours are not circulated in the country. As a Government, the Government of India have taken a very right step in inserting this clause, because false rumours play a great havoc in the present political condition of the country. For instance, a rumour was spread the other day that Mahatma Gandhi was out of prison. So every civil disobedience man took advantage of it to show mysterious powers of the Mahatma and the rumour was so widespread that everybody, even in remote villages, began to speak of it. Therefore, it is very necessary that this clause should be retained. I am against the entire omission of the clause, and, therefore, I oppose the amendment of my Honourable friend, Mr. Jadhav.

**Mr. Amar Nath Dutt:** I am sorry, Sir, that my friend from the Agra Division has not been able to find himself in agreement with the Honourable the Mover of the amendment. Probably he thinks more for the Magistrates and Collectors than Mr. Jadhav, a former Minister of the Government of Bombay.

**Mr. B. V. Jadhav:** Still he was an elected Member.

**Mr. Amar Nath Dutt:** Be that as it may, I submit that the clause which the Government desire to insert in the Bill is not needed for the purposes for which it has been introduced, namely, to combat the civil disobedience movement. They want to protect Government servants from certain things, and those are: “things likely to cause fear or alarm”. I

[Mr. Amar Nath Dutt.]

submit that fear or alarm which does not induce anybody to break the law or commit an offence should not have found a place in this Bill, in fact that principle is to be found in section 505 of the Indian Penal Code, where we have in clause (b) "with intent to cause or which is likely to cause fear or alarm to a public or to any section of the public whereby any person may be induced to commit an offence against the State or against public tranquillity". Certainly, nobody would quarrel if you have a provision like this in this Bill, and I think what my friend from Aligarh meant was that such protection ought to be given, and I think my friend, Mr. Jadhav, will not deny that such protection should be given. But to give protection to the extent that is contemplated here is something very wide and is not needed for combating the civil disobedience movement. In the first place, I think that Government officers ought to have some stamina in them to withstand public criticism or even unjust contempt which others may feel when discharging their public duties. To deal with the masses of the people is a very difficult thing, and I think many of the Government officers will bear me out when I say that a kind word or kindly treatment will capture the imagination as well as the affection of the people over whom these officers rule, while the people will not dare express their contempt or hatred for the unjust and tyrannical acts which these officers are prone to commit at times in their official capacity. I submit that to take away the Government officers who have to administer the law in the mufassil from the light of criticism is not the right thing to do, because every criticism made against an officer may be said to bring him to contempt or hatred. In fact in these days if the Honourable the Home Member would care to acquaint himself with the conditions in the mufassil and see how these officers are behaving with the people, he will at once see that their behaviour cannot but evoke contempt and hatred for that class of people who administer the law at the present moment. You cannot expect that the whole people will be above all such feelings of hatred or contempt for the wrong doers, and especially when these wrong doers happen to possess unlimited powers. Beginning from a small pin prick to the hang rope of the executioner, you have everything in your power. The law gives you certain powers to inflict punishment on the people, but besides this you exercise more powers than is contemplated by the law. If the Government officers are law-abiding, if they had that amount of respect for law which people outside that sacred ring have, I think there would have been less room for enacting a clause like this. You cannot kill hatred and contempt for an individual of that type. So long as human nature continues to be what it is, one is bound to hate men who do things for which hatred is the least thing that can be expressed.

Then, as regards contempt, I submit that if their conduct is such, which is not contemptible, I think no amount of contempt can affect them. If they act in a contemptible manner,—and I do say that they often act in a contemptible manner,—then there is nothing wrong in criticising the actions of such officers. Here is one instance in which you are acting in a contemptible manner. You are flouting the opinion of the public; you are flouting . . . . .

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member should address the Chair.

**Mr. Amar Nath Dutt:** Sir, I beg to be excused. Sir, they are flouting public opinion; they are not paying any heed whatsoever to the views expressed by the representatives of the people here, and need I say that it evokes both hatred and contempt in us for that? Instances like these ought to be avoided as far as possible in order to have good relationship between the Government and the people. You have witnessed from day to day how the Government servants here have treated all our appeals to them with respect to this piece of legislation, and if we demand of our servants, as they glorify to call themselves though really they are our masters, if we expect our servants to act according to our wishes, nay orders, and if they do not act up to our wishes and orders, then we would have at once dismissed them if we had that power. They are arming themselves with more powers with a view to keeping themselves tight to their seats so that nobody can disturb them. That being their position, they should not deny us the little human feeling of hatred and contempt which their conduct must evoke in us. Sir, I may say that I am not addressing them personally, because I know every one of them is an estimable gentleman,—my Honourable friend, Mr. Dutt, as well as my Honourable friend the Home Member. But the system they represent is a vicious one, and so long as they are in that system, their conduct inspires nothing but hatred and contempt. That being so, I support the deletion of this clause.

**The Honourable Mr. H. G. Haig:** As the House will have observed, this clause is proposed as a substitute for clause (b) of section 505 of the Indian Penal Code. The first difference from clause (b) of section 505 of the Indian Penal Code is that the words "whereby any person may be induced to commit an offence against the State or against the public tranquillity" are omitted. In other words, when the rumour is false and is likely to cause fear or alarm to the public, it is proposed that that in itself should be an offence and that it should not be necessary further to establish the very difficult proposition that the spreading of that rumour is likely to induce a person to commit a definite offence against the State. We all know that in this country the spreading of rumours, particularly false rumours, is a very easy matter and that it is apt to have a deplorable effect on the countryside in creating a general state of unrest. It is the easiest thing in the world to spread a rumour—they are after all to a large extent illiterate people, and consequently credulous people—a rumour that the Government are either going to take some perfectly unjustifiable and ridiculous action, or that the Government are being overthrown, or that there has been a mutiny of troops, or whatever it may be. Those rumours in themselves are most pernicious, and it is the intention of this clause that deliberate spreading of false rumours of that kind should be prohibited. The second point is that we have also prohibited the spreading of false rumours which are likely to cause hatred or contempt towards any class of public servants or any class of His Majesty's subjects. My Honourable friend, Mr. Amar Nath Dutt, seemed to think that by making that provision we were interfering with what he regarded as his inalienable right as a man to indulge in the human feelings of hatred and contempt towards Government servants. I should be the last person to attempt to deprive my Honourable friend of that satisfaction, and I would point out to him that this clause in no way interferes with any degree of hatred or contempt that he may feel towards these Benches. The only thing with which it interferes is the spreading of definitely false reports



[Mr. H. G. Haig.]

about us which are likely to cause those feelings. Sir, I oppose the amendment.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question which I have now to put is:

"That clause 6 of the Bill be omitted."

The motion was negatived.

**Mr. S. C. Sen** (Bengal National Chamber of Commerce: Indian Commerce): I move:

"That in sub-clause (1) of clause 6 of the Bill, the words 'or which is likely to cause' be omitted."

The clause is wide enough and I do not know what mischief it will cause,  
 3 P.M. but these words "or which is likely to cause" further extend the mischief of this clause. The clause says:

"with intent to cause or which is likely to cause fear or alarm to the public or to any section of the public. . ."

That is in very wide terms. Any two persons may come forward and say that they have been alarmed, that alarm has been caused to them. It is not very difficult to do so in these days. So, I do not think that the operation of this clause should be further extended by the use of the words "or which is likely to cause". As a matter of fact, the phrase "with intent to cause" may, in legal phraseology, be said to include "likely to cause", because a man's intention cannot be found either by stethoscopic examination or by X-ray examination. The intention is gathered from the reasonable or probable effect. So, in practice, the words "which is likely to cause" are included in the words "with intent to cause". There may be some difficulty in interpreting the words "or which is likely to cause", and, in my opinion, it will further extend the operation of this clause. I move my amendment.

**The Honourable Sir Brojendra Mitter**: Two objections have been taken by Mr. Sen to the clause. One is that the word "public" is too wide, and secondly, that the expression "with intent to cause" includes "likely to cause". My short answer is this. We are doing nothing new. It is already in section 505 (b). Section 505 (b) says:

"with intent to cause or which is likely to cause fear or alarm to the public or to any section of the public."

So, these are not new words. They are already in the Indian Penal Code, and no reason has been assigned why the Penal Code should be altered by the omission of these words.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question which I have now to put is:

"That in sub-clause (1) of clause 6 of the Bill, the words 'or which is likely to cause' be omitted."

The motion was negatived.

**Mr. B. V. Jadhav:** I move:

"That in sub-clause (1) of clause 6 of the Bill, for the words 'one year' the words 'three months' be substituted."

It might be pointed out from the Government side that in section 505 of the Indian Penal Code the punishment that is provided extends to two years and Government have been merciful enough to reduce it to one year. But I may point out that the offences under section 505 are very serious and heinous. Section 505 (a) runs thus:

"... with intent to cause, or which is likely to cause, any officer, soldier, sailor or airman in the Army, Navy or Air Force of Her Majesty or in the Royal Indian Marine or in the Imperial Service Troops to mutiny or otherwise disregard or fail in his duty as such."

It is a very heinous crime and, therefore, the punishment of two years that is provided in section 505 is all right; but in the present clause the offences that are made punishable are not so very serious and, therefore, the argument that in the original clause two years punishment was provided does not apply. Then sub-clause (b):

"with intent to cause or which is likely to cause fear or alarm to the public or to any section of the public whereby any person may be induced to commit an offence against the State or against the public tranquillity."

That is also a very serious crime and, therefore, the punishment of two years is justifiable, but the acts that are made offences under the new clause are not so very heinous and, therefore, such a punishment as that extending to one year is unnecessary. At the same time, I may point out that in clause 4, which has been adopted by this House, the punishment is only three months and clause 4 is a very important clause as has been urged from the Government side. It provides against boycott of Government servants. The boycott is a great inconvenience to Government servants no doubt and if, for that offence three months are sufficient, then I submit that the offence brought under the purview of this clause should also be punished with three months. Therefore, I move the amendment.

**Mr. Lalchand Navalrai:** I support this amendment. It is admitted that this clause has been widened and made more elastic than section 505, Indian Penal Code. To provide one year's punishment in the first instance is, I think, too much. I know that it is a maximum punishment, but I think, if not reduced by the Act, it will induce Magistrates to give greater punishment. I, therefore, support the amendment.

**The Honourable Mr. H. G. Haig:** My Honourable friend, Mr. Jadhav, rightly anticipated my line of reply to his argument by pointing out that under section 505 of the Indian Penal Code, a maximum penalty of two years is provided. I concede his contention that some of the offences under section 505 of the Indian Penal Code are more serious than the offence aimed at in this clause, but that point is very fully met by the fact that under section 505, the maximum period of imprisonment is two years, while we are providing merely for a maximum of one year. The period is that which the Select Committee recommended and I think in this matter it is safe to stand on their conclusion. Sir, I oppose the amendment.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in sub-clause (1) of clause 6 of the Bill, for the words 'one year' the words 'three months' be substituted."

The motion was negatived.

**Mr. B. V. Jadhav:** I move:

"That in sub-clause (1) of clause 6 of the Bill, for the words 'one year' the words 'six months' be substituted."

I need not repeat the argument I advanced at the time of moving the first amendment, but I would point out that if the Honourable the Home Member found three months too low, he may be induced to accept the period of six months proposed by this amendment.

**Mr. Lalchand Navalrai:** For the same reasons I support it.

**Rao Bahadur B. L. Patil** (Bombay Southern Division: Non-Muhammadan Rural): Sir, we ought to make a distinction between section 505 of the Indian Penal Code and the new clause now under discussion. The offences mentioned in section 505 of the Penal Code are certainly more serious and, if you look to the present clause, you will see that the offences are rather imaginary or sentimental in their nature. If you compare the present clause with the provisions of sub-clause (b) of section 505 of the Penal Code, you will realise the difference. Then, with regard to the punishment, there it was meant to be deterrent looking at the nature of the offence, but here the object is to fight the civil disobedience movement and not to cause a permanent impression upon the people of this country. I advance this argument, because the wording of the present clause is likely to include opinions honestly expressed. It is very difficult in many cases to distinguish between opinions honestly expressed and rumours. Much depends upon the view one takes. The officials might call a statement false, but at the same time one may contend that it is true. Sometimes it is very difficult to know the exact facts. The newspapers generally supply information to the reading public, on the information they get; sometimes it is contradicted. But sometimes the contradiction itself is found to be false. Under these circumstances, it is very difficult to know which is true and which is false as it is difficult to distinguish between a false rumour and an opinion honestly expressed. I beg to suggest that it would be proper for the Government to accept this modest amendment which has been so pitifully moved by Mr. Jadhav.

**The Honourable Mr. H. G. Haig:** My reply to the previous amendment was a general one and, therefore, covers the arguments which have been advanced with reference to this amendment and I do not think it is necessary to repeat them. But with reference to what has just fallen from my Honourable friend, Rao Bahadur Patil, regarding the relativity of truth, I would remind him that it is a common duty of a Court to determine whether a thing is false or true, and we shall not be putting on the Courts any greater obligation than that ordinary and common one.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in sub-clause (1) of clause 6 of the Bill, for the words 'one year' the words 'six months' be substituted."

The motion was negatived.

**Mr. Lalchand Navalrai:** Sir, I move:

"That to sub-clause (I) of clause 6 of the Bill, the following proviso be added:

'Provided that no Court shall take cognisance of an offence punishable under this section unless upon complaint made by order or under authority from the Local Government or some officer empowered by the Government in this behalf'."

Sir, it may be said that I am hoping against hope. But I do not think that that will be the mentality. I hope consideration will be given to my amendment because in this new clause new offences are created, and, under section 505, I. P. C., there is a difference. Under that section, it is not mere circulation, but some overt act has to be proved to have been done, whereas in this case mere giving fear makes out the offence. Therefore, it is very necessary for the Government to consider that there ought to be some precaution. I am not taking out the power from the hands of the Government. What I ask for is a precaution of an executive nature. Some precaution there ought to be and with that view I move my amendment.

**Mr. S. G. Jog:** Sir, the other day when a similar amendment was moved by my esteemed friend, Sir Muhammad Yakub, he charged this side of the House with inconsistency or rather with blowing hot and cold in the same breath. It was pointed out by my esteemed friend that when the Local Government's or any other responsible officer's sanction was given, that practically amounted to a mandate to the Magistrate and that the only thing then left to the latter was to pass a sentence. It was pointed out that there should be precaution, particularly when new offences were created, as then they were likely to work more mischief, by creating a handle for starting prosecutions under this clause. Sir, it is no doubt true that the politicians, as well as the occupants of the Treasury Benches, have on occasions to be exposed to the charge of inconsistency by blowing hot and cold in the same breath, but in view of the very vagueness of this offence and in view of the fact that a new offence is being created, I think we should have some sort of precautionary measure or, to use a technical phrase, a sort of safeguard, and, therefore, I think we should support my friend, Mr. Lalchand Navalrai's amendment which will much minimise the rigour of the clause. Sir, I heartily support the motion.

**Mr. B. V. Jadhav:** Sir, I rise to support the amendment moved by my friend, Mr. Lalchand Navalrai. The proviso which the Mover of the amendment wishes to be inserted does form part of clause 4 and, on the same analogy, it might be said that this should be necessary also with regard to this clause 6. Therefore, Sir, I support the motion.

**The Honourable Mr. H. G. Halg:** Sir, my Honourable friend, Mr. Lalchand Navalrai, in moving his amendment, said that he was hoping against hope. It was I think a very small hope that he had.—that in this matter he might prevail on us to accept his amendment, and, therefore, I feel, Sir, that I am not being very brutal in extinguishing that very little hope. The Honourable Member himself provided the answer to his own argument. He pointed out that under section 505 of the Indian Penal Code there is no such procedure, and the various offences under

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section 505 are very closely analogous to the offences under this clause. It would be, in my opinion, quite wrong to have a different procedure in this clause from the procedure already in force for section 505. Sir, I oppose.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That to sub-clause (1) of clause 6 of the Bill, the following proviso be added:

"Provided that no Court shall take cognisance of an offence punishable under this section unless upon complaint made by order or under authority from the Local Government or some officer empowered by the Government in this behalf."

The motion was negatived.

Clause 6 was added to the Bill.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That clause 7 stand part of the Bill."

**Mr. B. V. Jadhav**: Sir, I move:

"That clause 7 of the Bill be omitted."

The marginal note to this clause is "Molesting a person to prejudice of employment or business". Technically, it may be said that this clause is aimed against picketing. This is an Ordinance-made offence. Before the Ordinances were passed, the act of picketing was not punishable at all, and it is the right of every subject of His Majesty to be allowed to make use of this common right. Now, a man might meet a friend and both of them might stand and talk together. In that way they may cause some slight obstruction to others, but if that obstruction is not intentional and if the other persons had a right way to some other place to move on, then I think loitering there would not be an offence at all. But, under the present Ordinance rules, this picketing has been made penal and severe penalties are provided in this new Bill also. The Bill says:

"Whoever, with intent to cause any person to abstain from doing or to do any act which such person has a right to do or to abstain from doing, obstructs or uses violence to or intimidates . . ."

Of course using violence or intimidation is generally penal and must be punished. We have nothing to say against actual obstruction or the use of violence. We cannot defend it. But, at the same time, we have to see that the right of picketing ought to be respected if it is non-violent and at the same time if it is not against the expressed desire of the person whose shop or house is picketed. Sir, the clause is an objectionable one, so much so that my esteemed friend from Guzerat, Mr. Anklesaria, also has tabled an amendment and it will be realised, therefore, that it must be a really objectionable clause. Then:

"with intent to cause any person to abstain from doing or to do any act which such person has a right to do or to abstain from doing, obstructs or uses violence to or intimidates such person or any member of his family or person in his employ . . ."

Thus the protection that is afforded is not only to the owner of the shop, but it extends to "any member of his family or person in his employ". So the protection is very much spread out and it is rather indefinite, because it will be difficult to say who is or is not a person in his employ and whether that person was picketed because he was the employee of a particular individual, and so on. So, it is rather an indefinite provision and it ought not to be there:

"where such person or member or employed person resides or works or carries on business".

Therefore, the protection which is extended is not only available to authorised persons, but it refers also to various places. A person may have a place of business in one place and if the picketing is carried on there, it is made penal. That person may have a place of residence in another place and his servant may have his place of residence in a third place. The protection under this clause is spread over so many places that it is really difficult for one to say where a pedestrian will be safe; whether he will not come under the clutches of the law for picketing a particular individual or a member of his family or an employee of his at his place of business or at his place of residence or at the place of residence of a servant, and so on. It is so very indefinite and so very extensive that it will be very difficult for an honest man to even move out of his house and to go for his business. Then, Sir, that is not all. The clause goes on to say:

"or happens to be, or persistently follows him from place to place,"

He may not be at his place of business; he may not be at his place of residence; but wherever that person or the servant or the member of his family happens to be. If he is in a theatre or a cinema house and if some other person is also there, then perhaps the first person may object that he is followed by him wherever he goes and, therefore, he may seek to bring him under the clutches of the law. Then, Sir, that too is not enough, but in sub-clause (b) it is said:

"loiters or does any similar act at or near the place."

People do not walk at the rate of four or five miles an hour, but sometimes they go very slow and if they are going very slow in front of a shop, then perhaps a policeman may go to him and pounce upon him and say: "You are loitering here; come along with me; the offence is made cognizable. I shall prosecute you". The indefiniteness and the harmfulness of the clause are apparent. Sub-clause (b) further goes on to say:

"where a person carries on business, in such a way and with intent that any person may thereby be deterred from entering or approaching or dealing at such place."

Then there is an *Explanation* which runs thus:

"Encouragement of indigenous industries or advocacy of temperance, without the commission of any of the acts prohibited by this section is not an offence under this section."

It might be argued on behalf of Government that this *Explanation* has been inserted there in order to provide that propaganda for Swadeshi could be carried on with impunity. But, then, the condition is put in:

"without the commission of any of the acts prohibited by this section."

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And the acts prohibited by this clause are so very wide that it will be quite impossible to exempt any person or any action under it and, therefore, the operation of this clause will be to the effect of stifling any Swadeshi propaganda or any propaganda against drink. So, Sir, I move that the whole clause be deleted.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Amendment moved:

"That clause 7 of the Bill be omitted."

**Diwan Bahadur Harbilas Sarda** (Ajmer-Merwara: General): Sir, the motion under discussion is No. 106 on the list. 105 amendments have been proposed and all have been rejected and there is not the ghost of a chance for this motion to survive the slaughter of the innocents. If I, therefore, support this motion, it is to record my protest against the enactment of clause 7 in its present form in this Bill.

Sir, I have nothing to say to Government making it an offence for people to use obstruction or violence in order to prevent Government servants and others from doing their duty or what they are paid to do or when they are anxious to do what is profitable to them. My complaint is that the provisions of this clause are all-embracing. What surprises me is that those who are responsible for this unhappy piece of legislation—unhappy not because it is to protect Government servants or others from harassment and trouble, unhappy not because it takes certain steps to save innocent people from unwittingly committing certain acts which Government have made penal, but unhappy because in their zeal to crush the civil disobedience movement, the framers of this clause have lost their sense of proportion, perspective, and even the power to connect cause with effect and have presented to this House a draft which makes a man liable to be prosecuted, no matter what he does or omits to do. I am sure that the Honourable Sir Brojendra Mitter is not responsible for it, his sincerity of purpose is well known; not even Sir Lancelot Graham whose sturdy common sense is appreciated by all.

Sir, speaking on this Bill on the 27th September last when it was placed for consideration before the Legislative Assembly in Simla, I made the following remarks in connection with clause 7:

"This provision too is equally too comprehensive, and unless it is modified or the intention of Government is translated by words into restricting it to certain political matters, the clause, as it stands, will cover the case of a man interested in and working for social reform. A person, 70 years old, is entitled to, and has a right to, marry, under the law, a girl 14 years and 3 days old. If a social reformer or anybody, who takes interest in purifying society, tries to dissuade that man from following that course, and if he loiters or stands in front of the door of that man's house, under this law he can be prosecuted, for there is nothing to show that . . ."

**The Honourable Sir Brojendra Mitter**: Sir, I rise on a point of order. Is the Honourable Member entitled to quote the authority of his own speech?

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Order, order: The point of order is that the Honourable Member is reading his own speech made in this House.

**Diwan Bahadur Harbilas Sarda:** I am trying to show that this Bill, before it went to the Select Committee, was open to certain objections and, though Government have had time to reconsider their decision to make it shorn of all its defects, still the thing remains where it was. Then I want to show why Government have done this. The reason why I am quoting from my speech is to show that Government have done nothing to remove the defects of the Bill.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Apart from the point of order, the Chair should like to suggest to the Honourable Member (Diwan Bahadur Harbilas Sarda) that it would be more effective if he were to give expression to those views again in his own words instead of reading them out from previous records.

**Diwan Bahadur Harbilas Sarda:** I will accept your suggestion, but I thought I was perfectly within my rights to show how Government were behaving in this matter, and, in order to show that, I was quoting certain words from my speech. If, however, as you suggest, it is better that I should raise the same objection while discussing now this thing, I will take that opportunity. It appears to me that Government, after the discussion was over in the Assembly in September, became aware of the shortcomings of their handiwork and saw the force of the criticisms directed against this measure by Members on this side of the House and by me particularly on clauses 2 and 7. But whether it was their fear of loss of prestige, or whether they thought that, constituted as this House at present was, they were able to carry the most defective and reactionary measure without any difficulty . . . . .

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The Chair is very reluctant to interrupt the Honourable Member, but from the Honourable Member's observations the impression produced is that he is making a speech on the third reading. At present we are dealing only with clause 7. The Honourable Member appears to be dealing with the whole Bill and the attitude of Government in regard to it. That would be perfectly relevant on the occasion of the third reading, but at present the Honourable Member will please restrict himself to the provisions of clause 7 and give his reasons in full why he is opposed to the retention of the clause in the Bill.

**Diwan Bahadur Harbilas Sarda:** I am confining myself entirely to clause 7. All the remarks that I am now making are confined only to clause 7. If they indirectly apply to other clauses, I am not to blame for it, but the gentlemen who sit on the opposite Benches, I am confining myself entirely to the defects which are inherent in the language in which they have framed this clause and I do not want to go an inch beyond clause 7.

I was only saying just now that I criticised clause 7 of this Bill in Simla, but notwithstanding the opportunity that was given to them they have not amended this clause 7 and my speech should be taken to be strictly limited to clause 7. I have nothing to do with any other clause of the Bill. Whether it was the matter of prestige or whether they thought that in this Assembly they could carry anything they liked, they have not agreed to modify this clause so that it may be shorn of those defects which make it unacceptable to all reasonable men save those who are under a



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mandate to support it or who have surrendered their judgment to the safe or the unsafe keeping of the gentlemen who adorn the Treasury Benches. Sir, if they did not agree to modify the frame of this Bill, they have tried to explain away the criticisms that were directed against it and they have added an *Explanation* to this clause 7. But that *Explanation* is not only superfluous, but, to use the mildest of words, meaningless. The *Explanation* reads thus:

"Encouragement of indigenous industries or advocacy of temperance without the commission of any of the acts prohibited by this section is not an offence under this section."

Who in the world ever supposed or contended that if a man did not break any of the provisions of this clause he would be guilty under this clause? Does any man, with a grain of sense in him, contend or assert or allege that if a man does not break the provisions of a law, if he does not do anything which a particular section of law prohibits him from doing, he will be guilty under that law? I fail to understand the meaning of this *Explanation* which they have added to this clause.

Sir, I would ask the Honourable the Home Member, or rather I would ask the Honourable Mr. Haig for whose sense of justice I have great respect, seriously to consider whether, if it is not his intention to expose workers in the cause of social, educational or economic reform to harassment and trouble, it is not up to him to modify this clause so that those who work for social reform or educational reform or economic reform shall be excluded from the purview of this clause as long as they do not use any violence to anybody and pursue their avocations peacefully.

It is very difficult for any one not initiated into the mysteries of statecraft to understand the principle underlying this clause which makes it penal for a man to do something to another man which the other man may not even dislike and about which he has no cause of complaint.

Another extraordinary feature of this clause is that under this clause a person to whom anything is done has no right to complain. A loiters before the door of B; B finds no cause to complain against A and he does not complain or object to A's act. But a third party, *viz.*, the police, comes in and files a complaint and the man is punished. The matter is between two men, none of whom has complained, but a third party comes and complains that the man has committed an offence. This is the most extraordinary feature of this piece of legislation so far as this clause is concerned. Shall I take it that the framers of this clause have inadvertently or unwittingly betrayed their real objective by inserting this clause which clearly shows that their sole purpose is not to crush the civil disobedience movement, but to control the entire activities of men, whether political, moral, social, economic or religious?

Sir, the clause, if we ignore the other alternatives and take only one alternative reads thus:

"Whoever with intent to cause any person to abstain from doing or to do any act which such person has a right to do or to abstain from doing, loiters at or near a place where such person resides or happens to be shall be punished with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both."

You will see the absurdity and the ridiculousness of this provision if you consider one or two illustrations which I will give you to illustrate the purview of this clause. A man has a right to fast for one hundred days: he has a perfect right to do so; if a man goes to him or loiters near his house to dissuade him by entreaties from doing so, he is liable to be prosecuted under this clause. A person has a right under the Hindu customary law to marry two wives or more. If a brother of his first wife loiters near his house to entreat him not to marry a second wife and make the life of the first wife miserable, and he only wants by entreaties to dissuade him from carrying out his intention, that man is liable to be prosecuted. Take the third case as I said—a person has the right to take a leap from one side of a well to the other—he has a perfect right to do so and he has made his intention known; and if a man goes to him or loiters outside the door of his house with the intention of dissuading him from attempting the leap as it might endanger his life, that man is liable to be prosecuted though the person he wants to save does not complain of the advice given him; but under this clause, as it is framed, the police have a right to challan that man and he is liable to be punished. The fourth instance which I gave last Session is the case of a man of 70 years who wishes to marry a girl of 14 years one day, which under the law he has a right to do, and if a man goes, and stands outside his house and wishes to dissuade him from doing so, he is liable to be punished. It is no argument to say that Government would not be so foolish as to prosecute such people as I have enumerated. The point at issue is not whether Government will do this or will not do this. The point at issue is whether under the clause, as it is framed at present, a man is liable to be so prosecuted, particularly when we consider that the nature of the act, the intention of the person doing it, and even the fact that it is not displeasing to the person against whom the act is done, is of no consideration so far as this clause is concerned.

If the clause had been so framed as to make it penal for a person to prevent people from carrying on their trade or following their profession, or do anything to interfere with a person who wants to do something which is profitable to him, or if he is compelled to do something which is unprofitable or which he does not like to do, I could understand and I could appreciate Government's desire to enact the clause. But when Government ask us to help them to enact a clause which makes it an offence for us to do what we have every right to do and what, in certain circumstances, are ordinary duties to our fellowmen, and ordinary laws of morality, ordinary common sense imposes upon us the duty of doing, we are compelled to say "no" and reject the demand.

**Mr. H. T. Sorley** (Bombay: Nominated Official): Mr. President, I oppose this amendment. We have now come to clause 7 of the draft Bill. Clauses 7 and 18 are the two most important clauses of the Bill and it is absolutely necessary that clause 7 should be put on the Statute-book in something more or less like its present form. I am going to give reasons which I hope will convince this House why this course ought to be followed. The civil disobedience movement has discovered a new technique of law-breaking for which the Criminal Law, as it stands on the Statute-book today, is quite ineffective and this technique consists of two parts: the first is a mass campaign of certain specified offences by crowds, and the second part is an instigation of these crowds by juntas, cabals, or caucuses, call them by what name you like, which exist for the very

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purpose of instigating disobedience to the law. These juntas go by the name of Congress Working Committees and they have been declared illegal in many parts of the country. Now the effect of this law breaking is the intimidation of individuals which has resulted in a tyranny, a very gross tyranny, which must be stopped and which it is the duty of the State to stop. Now, the law breaking is of two kinds: first, it is committed by crowds as such; secondly, it is committed by numbers of individuals acting as agents together for this purpose. The first type of law breaking is mass law breaking and usually takes the form of various kinds of unlawful assemblies. The second kind of law breaking is what we call vaguely and unscientifically picketing. I shall, in the course of the next few minutes, try to draw a distinction between what picketing means in theory and what it has actually meant in practice. And I wish to explain my point of view by particular reference to examples of picketing in the Bombay Presidency. I had many excellent opportunities of seeing the course of the civil disobedience movement in the Bombay Presidency not only in the Bombay City; but in seven districts of the Presidency at various dates during 1930, 1931 and 1932; and I am talking from full knowledge and with full responsibility for what I say. The one cardinal fact in respect of the kinds of law breaking typified by picketing is the inadequacy of the law relating to criminal intimidation and the discovery that has been made by the organisers of the civil disobedience movement of this. They have discovered that it is just as easy to injure a man, to annoy a man, to intimidate a man and terrify a man by merely following him about in the street or by lying in front of his door as it is by hitting him on the head. And there is this great difference between following a man about in the street and hitting him on the head, that whereas the law provides a perfectly adequate remedy against persons who hit others on the head, it is very weak and vacillating when it is dealing with persons who follow others about in the street or lie in front of other people's doors. The definition of criminal intimidation is given in section 503 of the Indian Penal Code thus:

"Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation."

Now, the plain fact of the matter is that this definition of criminal intimidation does not cover many acts of intimidation which have been found most effective during the civil disobedience movement and have been admitted by this House to be objectionable and requiring suppression. I do not want to discuss the inadequacies of section 503 in detail, because I wish to proceed to more important matters, but I just want to say this now, that the great weakness in section 503 lies in the meaning which Courts have attached to the term "threatens". The word "threatens", as interpreted by the Courts, does not cover very many actions which are in the nature of threats and have the same effect as threats, and as long ago as, I think, about 1888, it was held in the Courts that advising persons not to deal with others did not constitute criminal intimidation and it was held in other cases that threats of *ex-communication* and social boycott did not come within the scope of section 503. As the civil disobedience movement has been largely built up on this defect in section 503, it is perfectly obvious that the law in this respect is inadequate.

The existing law is inadequate because, as I have said, the definition of criminal intimidation is not sufficient. It does not cover intimidation of the nature which is now provided for in clause 7 of this Bill. Clause 7 of this Bill is properly to be regarded as an extension of section 503 of the Indian Penal Code and as a supplement to it. The second reason why the law relating to intimidation has been insufficient for the civil disobedience movement is that even in cases where a sufficient legal remedy is available under the law, it cannot be applied, because crowds or a number of individuals act together as aggressors and the individual aggrieved is afraid to complain, and the third reason, why the law relating to intimidation is inadequate, is that it fails at present to provide a short, sharp, simple remedy which will penalise directly the various actions that take place without it being necessary for the State to establish that certain very definite actions have occurred which would bring the law within the various provisions of the Indian Penal Code.

I come now to discuss for a few moments the general nature of picketing.

**4 P.M.** Picketing, as I understand it, means something like this. It means that one or two or more individuals, who do not agree with a person, go to visit him or stand over him in order to try to persuade him to change his view, to do something that he would not otherwise wish to do. In other words, picketing is a form of persuasion to be carried out by argument, with logic and with reasonableness. Now, there is nothing objectionable in that, but the point is that when one man is going to be persuaded by several persons, it is a question of fact exactly where persuasion ceases to be unobjectionable and becomes objectionable, and it seems to me perfectly clear that the persuasion becomes objectionable when any question of force, or compulsion or intimidation or annoyance enters in the circumstances, and it is precisely my criticism of picketing as carried out by the Congress organisation during the civil disobedience campaign that it has always gone beyond this limit. It has passed beyond reasonable limits, it has passed from the bounds of the unobjectionable, it has crossed that barrier and become definitely objectionable, and in this view I am fortified by the admission made by the Congress itself at the time of the Gandhi-Irwin Pact. In the Lord Irwin-Mr. Gandhi Pact, signed by the Congress on the 5th March, 1931, it was said that "such picketing (that is in furtherance of boycott of intoxicating drugs and drinks and of all foreign cloth and liquor shops) should be unaggressive and should not involve coercion, intimidation or restraint, hostile demonstrations, obstructions to the public or any offence under the law. If these conditions are satisfied in any area, picketing is to be suspended there". I think that is a complete admission on the part of the Congress that the picketing, as carried out up to the 5th of March, 1931, did overstep these bounds, and the question which I wish to put to the House now is, when we consider the kind of organisation which the Congress has employed in order to paralyse the State and the authorities responsible for law and order, and when, in consequence of the policy laid down, they engage large numbers of agents to stand over, watch and beset, to use the English phrase, in order to get those with whom they disagree to change their views, when we remember that the Congress itself is avowedly out to paralyse the State and to change the system of Government by unlawful means, can we for a moment suppose that picketing of that kind can ever be peaceful, that there will ever be absent from it some element of intimidation or terror or annoyance to the persons whom they wish to persuade and with whose views they are in disagreement? I suggest, Sir,

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that it is quite absurd to think that Congress picketing, as we understand it, can be anything else than unpeaceful and violent.

I wish now to refer to some typical instances of picketing in the Bombay Presidency. I have collected a large number of instances; in many cases I have seen the picketing for myself, but I have collected several typical instances in order that the House may fully understand the problem that we are dealing with, and that the House may realise why a provision like clause 7 should be put on the Statute-book more or less in its present form. I have got five different types of picketing here. The first is one of interference with purchasers and seizing the purchased goods from them; the second is the use of female picketers who employ force; the third is to obstruct persons by lying flat on the roads and not allowing vehicles to pass, and the fourth is picketing followed by crowd action which degenerates into serious offences against life and property and is accompanied by threats, and the fifth kind is picketing accompanied by intimidation in order to force the payment of fines to the Congress, and I am going to quote chapter and verse for every one of these things.

On the 8th of July, 1930, in the Bombay City, at about 9-30 P.M., a police constable in plain clothes purchased two shirts in the Chira Bazar. When he was returning, he was accosted by three or four volunteers who asked him why he purchased shirts of foreign cloth. As the volunteers tried to get hold of the shirts, the constable caught one of them by the neck. A crowd collected and it was alleged that the constable was a C. I. D. man and he was roughly handled.

5th August, 1930, Bombay City. Congress volunteers stopped carts carrying bales of cloth to ascertain whether they contained foreign or swadeshi cloth. The bales were ripped open, and, as they were found to contain foreign cloth, a volunteer accompanied the cart to its destination to ascertain the name of the party to whom the goods were to be delivered and then reported the matter to the Boycott Committee of the Congress.

3rd November, 1930. Bombay City. Three female volunteers of the Hindustani Seva Dal, who were picketing the godown of E. Spinner and Co., attempted to prevent a hand cart containing bales of cloth from leaving the godown. The godown authorities informed the police who went to the godown and formed a cordon round the three pickets and allowed the hand cart to proceed. Soon after, five other women picketers tried to stop a second cart and similar action had to be taken by the police before the cart was allowed to proceed. A crowd collected, jeered at the police and cried "Shame".

20th January, 1931. Bombay City. In the evening a bullock cart and a hand cart laden with foreign cloth were emerging from the docks along the Musjid Bunder road when they were obstructed by about half a dozen volunteers near the Musjid Bunder Bridge. The volunteers prostrated themselves in front of the carts. The driver of the bullock cart left his cart and disappeared, leaving the goods as they were. He was afraid to come back.

21st January, 1931, Bombay City. At about 12-30 P.M., three volunteers obstructed a hand cart containing foreign cloth belonging to a Muhammadan merchant in Kambekar Street. One prostrated himself in front of the

cart, while the other two were pushing away the owner when the police arrived and arrested them.

29th January, 1931. Bombay City. At 6 p.m., a Parsi lady accompanied by two Parsis purchased some foreign cloth from Karanjia and Co. on the Hornby Road, which, as you know, is the main street of Bombay, and were about to enter their car when two volunteers prostrated themselves in front of the car. The Parsis left their car and engaged a taxi, but the volunteers followed and obstructed the taxi. A large crowd collected and some one pulled down the connection cable of the tram into which the Parsis had entered. Word was sent to the police who arrived on the scene, arrested the volunteers and dispersed the crowd.

29th January, 1931. Bombay City. Ten volunteers picketed the shops of chemists and druggists in Princess Street and Shaikh Memon Street. At 11 A.M., a customer, who had purchased some drugs, was going along Shaikh Memon Street, when he was stopped by some volunteers who wanted to examine his purchases. As he had purchased British drugs, he was prevented from taking them away. He left the coolie who was carrying the package with the volunteers and went to the Princess Street police station, but by the time the police arrived the volunteers had disappeared.

I quote now an instance from the mufassil.

East Khandesh, May 1931. The Chopda Taluka Congress Committee started to picket the shop of Fulchand Agarchand as it was alleged that he had imported foreign cloth into Chopda in violation of his pledge. The shop was picketed from May 5th to May 10th and stopped when he paid Rs. 101 which the Congress Committee had ordered as a fine upon him.

I had hoped at one time to be able to draw an analogy between the civil disobedience movement and the General Strike in England, but I consider that possibly a better opportunity for talking on that point may arise later on when the amendments relating to peaceful picketing come up for decision. I just want now to refer to what His Excellency Lord Irwin said on the 9th July, 1930, in the Simla Session of the Assembly in this connection. He said:

"Mass action, even if it is intended by its promoters to be non-violent, is nothing but the application of force under another form, and when it has as its avowed object the making of Government impossible, Government is bound either to resist or to abdicate. The present movement is exactly analogous to a general strike in an industrial country, which has for its purpose the coercion of Government by mass pressure as opposed to argument."

In this connection, in order to throw some light upon the wording of clause 7, I wish very briefly—I have taken up more time than I had intended to—to refer to what happened in Great Britain after the General Strike of 1926. The chief result which ensued from that strike was the passing in 1927 of the Trades Dispute and Trades Union Act. That Act made very important alterations in the law, and the changes which have been made in the English law are exactly analogous to the provisions which are now made in clause 7 of the present Bill. Section 3 of the Trades Dispute and Trades Union Act dealt with intimidation. It defined intimidation for certain purposes as constituting watching and besetting. Watching and besetting corresponds very closely to the various acts which have been specified in sub-clause (a) and sub-clause (b) of clause 7 of the Bill. The second thing that this Act did was to enlarge the scope of

[Mr. H. T. Sorley.]

criminal intimidation, and it is very instructive. I am going to read out to the House the provisions of section 2 and compare the English law with the present clause. Section 3 enlarged the scope of intimidation for precisely the same reasons as Government are now seeking to enlarge and supplement the definition of criminal intimidation in section 503, because under the law, as it existed previous to the General Strike, a vast amount of intimidation and annoyance was being carried on against private individuals, which the law in its then existing form was unable to stop. Section 3 of the Trade Disputes and Trade Unions Act, 1927, reads as follows :

"Every person who, with a view to compel any other person to abstain from doing or to do any act which such other person has a legal right to do or abstain from doing, wrongfully or without legal authority :

(1) uses violence to or intimidates such other person or his wife or children, or injures his property; or

(2) persistently follows such other person about from place to place; or

(3) hides any tools, clothes, or other property owned or used by such other person, or deprives him of or hinders him in the use thereof; or

(4) watches or besets the house or other place where such other person resides or works or carries on business, or happens to be, or the approach to such house or place; or

(5) follows such other person with two or more other persons in a disorderly manner or through any street or road; shall, on conviction thereof, by a court of summary jurisdiction or on indictment as hereinafter mentioned, be liable either to pay a penalty not exceeding £20 or to be imprisoned for a term not exceeding three months, with or without hard labour."

The other important thing which was done by this Act was the declaring of a general strike illegal as such, and any acts in furtherance of a general strike were declared illegal, and this section dealing with intimidation is the main method by which the law was supplemented. The point I wish to make now is that there is a very close analogy between what was done in England in 1926-27 and what is sought to be done now, and for precisely the same reason—that India and England were faced with problems which present very considerable similarity, and the manner in which the problem is met might well be duplicated in the two countries. In a matter like this, where the State is threatened by a subversive and powerful organised minority which wishes to enforce its will upon the community at large, there are two questions which arise. One is, how is such a movement to be stopped and the second is, how is such a movement to be prevented. In the case of England, the General Strike was stopped by calling out the forces of public loyalty and by the provision of some special regulations. A similar movement was prevented for the future by putting on the Statute-book provisions of law which render this kind of intimidation impossible. In the case of India, the movement has been stopped, but not completely stopped, by the passing of the Ordinances for the time being; to prevent its recrudescence it is necessary that similar powers dealing with intimidation, such as are provided in clause 7, shall be put on the Statute-book. Sir, I oppose the amendment.

**Raja Bahadur G. Krishnamachariar** (Tanjore *cum* Trichinopoly: Non-Muhammadan Rural): This is the second time that I have had the good fortune to follow my friend from Guzerat and to point out for the first

time that all his labours were unnecessary. The victory, so far as this amendment is concerned, is quite clear. I cannot understand why on earth my friend took all this trouble to read to us all these instances. They are perfectly true. Nobody denies them. Every one who follows the newspapers knows them. As you have rightly ruled, if I may say so with respect, the question is whether this amendment should succeed or not. The success is in their hands. Why all this trouble, I cannot understand. (*An Honourable Member*: "Why do you speak then?") I speak because it is my misfortune to oppose this, knowing I am going to lose. Unfortunately we are leading a forlorn hope, as the English phraseology goes. If I had my own way, I should simply sit here and see Government making motion after motion and carrying them, with no opposition. In three hours time the whole business would be over and we can all disperse. I should plainly and honestly have liked that course. Unfortunately there is the newspaperwalla who would call us all shirkers. They will say, we want something from Government. Some of us are afraid, some of us are not, but we ought all to go together. We must act in what they call the herd mentality. That is the reason why I am speaking, but honestly I do not want to speak. (*An Honourable Member*: "Your speech might convert us.") We have got a saying that when the last breath comes, there is no stopping it. Am I going to prevent the last breath from coming out? No, Sir, that is beyond my power. I am not a doctor. My friend from Bombay might try his hand at it, but I cannot do it.

Now, the great historian, James Antony Froude, has remarked that you can never rule a country autocratically except that autocracy affects your own democracy. I was wondering if James Antony Froude was not drawing upon his imagination as a theoretical historian, but today I am thoroughly convinced that I was wrong and I did Froude an injustice in doubting his wisdom, because my friend over there from Guzerat not only recited to this House the steps that have been taken in England, but applauded it and wanted similar action to be taken in India. I am afraid a speech of that sort would not be particularly welcome for instance in Hyde Park for more than two minutes and my friend would get a short shrift there. In the life of Johnson, there is mention made of a curate whose leg of mutton which was found to be good only in parts, but not as a whole. This Bill is not even like that. (*An Honourable Member*: "It is an egg.") Being a Brahmin, I cannot distinguish between one thing and another. Now, if we had a plain honest small Bill which punishes people who prevent them from doing what they are legally entitled to do, probably there would be greater support and sympathy for the Government. Now, we do not know what they want, what they are after. You are going to get this democracy and, before you get the democracy, you get the rope so tightened, so that the man has only to touch the string—and, well, it does not matter what happens.

With the permission of the House, I just want to run through this clause. I want to ask the Government one thing. Do they intend to administer this clause impartially? If they do, the whole of their C. I. D. will come in. I tell you how. The moment some of us start from our places, it may be Trichinopoly or Madras, there is a member of the C. I. D. shadowing us. I do not know if you are aware of it. They say, Krishnamachari, for instance, is No. 33. I do not know if I am honoured in their books, but some of my friends have been honoured. Directly



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they leave Madras, it is wired all over the place that No. 33 has left Madras. It is such an important business that "line clear" messages are sent. (*An Honourable Member*: "How do you know.") Dare anybody deny what I am saying? Let the Honourable the Home Member say "No". I shall answer that question more specifically by saying that time after time, Session after Session in this very Assembly and in the previous Imperial Council, it has been said that the most important person who had been favoured with the attentions of the C. I. D. was my late lamented friend, Mr. Gokhale. Mr. Gokhale, for whom tears are shed now, was the man who was shadowed by the police wherever he went. That, Sir, is my source of information. Now, we shall take this clause and apply it to the C. I. D. "Whoever loiters at or near a place - or persistently follows him from place to place." Now, am I not entitled to come from Srirangam to attend this Assembly at Delhi? I have been elected by my constituency and I have been summoned by His Excellency the Governor General to come here. Now, here is a gentleman belonging to the C. I. D. who calls me No. 33 and follows me closely.

**The Honourable Mr. H. G. Haig**: Are they trying to prevent you coming?

**Raja Bahadur G. Krishnamachariar**: As for preventing me from coming, if I am too much annoyed, I throw the sop off. So far as the annoyance is bearable and so far as, on the balance of convenience, the annoyance is less than the importance of the duty as I conceive it which I have to perform, I come, but when I find it impossible, well, I give up. Sir, at times the attentions of these gentlemen are intolerable. Only the other day in Simla on the Cart Road there was a little bit of an incident. Every one of us knows of that. Sir, I am quite serious in my objection. I say, this man persistently follows me from place to place with intent to cause any person to abstain from doing any act which such person has a right to do. What I say is this: why does he follow me? I say, his intention is that I should not come here and speak in the Assembly. (*Voices*: "No, No.")

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Order, order.

**Raja Bahadur G. Krishnamachariar**: Well, I cannot get into their intentions unless I am a Magistrate. Then there is no appeal to the High Court against the finding of the Magistrate. Sir, the fact of the matter is that the C. I. D. man will come and persistently follow: and now will the Government prosecute one C. I. D. man, because he comes under this clause? No. Sir, the man who would come under this clause is the man who wants to persuade another from doing what the former considers to be wrong, and then he will come within the clutches of the law. There is another more serious instance I have in mind. You know, every night, after the bazaar is closed, *Puranas* are recited. In those *Puranas*, there are various injunctions that you should not do this and should not do that. Now, such a practice will come under the clutches of the law if this clause is passed. I believe it was Lord Macaulay who pointed out that as our definitions are framed, it is theft to dip your pen into another man's inkpot: and in order not to drive the Government to such an absurd position, section 95, I believe, has been framed to disregard these minor

offences. But if Macaulay's spirit was hovering over this Assembly—and he was the **most distinguished Member** of the Legislature in the seat which my Honourable friend, Sir Brojendra Mitter, is now adorning—he would perceive that there was at least one clause which he had forgotten and which the Honourable the Home Member has now supplemented and in reference to which my Honourable friend the Member from Guzerat applauded and pleaded for a whole hour. Sir, what I cannot understand is, why it is that when a man enters a shop and wants to buy something, I should not stand in front of the shop and say, “Baba, please do not buy?” Why should that be an offence? Sir, you are just as much entitled to sell as I am entitled to prevent you from selling some thing. Then:

“loiters or does any similar act at or near the place. . .”

Now, this loitering is a thing which I certainly hold is not a question of ingenious argument as my friend, the Honourable the Home Member, characterised what I submitted the other day. What is it that you are supposed to do when they say you have been loitering? Now, I cannot walk fast and so I walk slowly. They say I am loitering, especially if I am not in the good books of the police. I quite admit that in Guzerat and other places these executive officials have had a hard time, but you are paid for it, you have got to take the lean with the fat, when you are going on with your entertainments, with your parties, with your dances, with your balls, you do not complain. But some day you get into some minor trouble why complain? Sir, it is not an easy job to rule a great Empire and these things are part of the day's work of ruling a great Empire: and simply because in a certain place half a dozen persons had prevented another half a dozen persons from doing a certain thing, you want to move a great and big Legislative Assembly to crush a fly and set to work the Nasmyth hammer. That is not the way a big Government like the British Government should rule India. It is perfectly true that you have trouble now and then. Don't you have trouble in England? You have trouble everywhere now and then. There was the General Strike in England and trouble up to 1926 and even after that for a time, there was such an uproar, but nobody heard of Consolidated Ordinances, and so on. So, before I sit down, I want to make it perfectly clear that this Assembly is not at all unwilling to give powers to the Government which would enable it to govern; but if you interpret governing to mean crushing the people and all their activities, not even allowing them to raise their heads, then we say, “Stop, halt, we cannot go with you”. That, Sir, is my position and that, I say, is the position of the Legislative Assembly. Then:

“No Court shall take cognizance of an offence punishable under this section except upon a report in writing of facts which constitute such offence made by a police officer not below the rank of officer in charge of a police station.”

Now, Sir, I have had something to do with law-making and I cannot understand what this *Explanation* No. (2) is supposed to constitute as a safeguard. If you want the complaint, there is a thing called “the first report of the offence”. That first report of an offence is always laid before the Magistrate, and is this supposed to be more than that? If anybody has read the proceedings of High Courts, he will find very severe strictures made at times by Judges, simply because the first report does not contain all the details. Who is going to be benefited by this *Explanation*? Then, —“officer in charge of a police station”. Now, there may be a little bit of fun over that with regard to an officer in charge of a police station in the

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mufassil. About half a dozen constables and one head constable were put in charge of that police station. In one place there is a murder committed, in another place there is an arson committed, and in a third place, a theft committed. All these men go away, and there is only one man generally a new recruit of a constable in charge of the police station who is present in order to make a full report of the facts of the case,—and what does that full report say? He writes two or three lines and then refers the case to the Magistrate. Sir, that is the way these things are done. Sir, when an official report contains facts, they are taken as gospel truth. But when I state certain facts, they are taken as ingenious statements and are brushed aside. Sir, if you want the regard of the people for you . . .

**An Honourable Member:** Whom do you mean.

**Raja Bahadur G. Krishnamachariar:** I mean it is the Government of India that want the regard of the people. It is not the Chair that is in question, for it already commands the high regard of the people, and the people are so much concerned about the dignity of the Chair that they always uphold it and the affection, with which the Chair is held by the people, is already a known fact. I was only talking of the Government which try to get respect at the point of the bayonet, and I was thinking of the remarks which fell from my Honourable friend, the Official Member from Bengal, when he said that I was narrating grandmotherly tales. Sir, the relationship of a grandmother is not, after all, such a despicable one amongst us. Apart from that, it is not a grandmother story. Will you investigate the matter? I was myself going to prove the whole thing as I possess chapter and verse of it. So it is not a thing that happens occasionally; on the other hand, it is a thing which happens every day in some distant part or other of the mufassil. It is all right for people living in Simla and Delhi and travelling in their saloons, who wake up at 8 o'clock in the morning to say that India is prosperous. Sir, these gentlemen do not understand the thing; we understand it. Therefore, I submit, that in view of the possible trouble that this clause will create, I wholeheartedly support the amendment moved by my Honourable friend, Mr. Jadhav, that clause 7 be deleted although I know it fully well that this will not be the case.

**Sir Muhammad Yakub:** Sir, after the eloquent, elaborate and convincing speech of Mr. Sorley, for which he deserves to be congratulated, I thought there was no need to make a long speech on the motion before the House. But the clause is so important, that I think a silent vote in support of it would be out of place. Sir, if any of the mischievous activities of the Congress are to be stopped and curbed with a strong hand, it is the operation of what is generally known as the boycott movement. It is very difficult to describe the forms which this mischievous movement has taken in this country. Houses and shops were burnt, cloth was set fire to: the nose of a cloth merchant was cut at Cawnpore, while a Mussalman merchant was killed in Benares. All this was done in the name of what is known as the peaceful operation of picketing. It has been said by certain Honourable Members that the wording of this clause is very comprehensive. I would submit that, on the other hand, the wording of this clause is still not as comprehensive as it ought to have been; and I am afraid that the evil genius of Congress would forge certain other forms of picketing which would not be covered even by this comprehensive

clause of the Bill. Sir, last year in the months of May and June I was sitting in the Bar Library of Moradabad. I saw that about two or three dozen urchins, between the ages of 10 and 15, followed by two or three Congress volunteers, came, shouting insulting slogans and things like that, and besieged our Bar Library. Two or three urchins sat in each door and would not allow any of the members of the Bar to come in or go out and went on shouting that the members of the Bar should give up their profession. It was a hot day and I required some water to drink, but these peaceful picketers would not allow the servant of the Bar Library to bring water for me. Sir, this is what they call peaceful picketing which should be tolerated. Then, Sir, it must be within your recollection that only the other day an Honourable Member wanted to come to this House to attend the Assembly and his residence was picketed and he was not allowed to attend the Assembly. This and many other phases of the activities of this operation of picketing are so annoying and so inducive to the breaking of the law of the land that there can never be any peace and prosperity until this movement is put an end to. Trade is paralysed. We find that many petty merchants have become insolvent and have been ruined; their children are starving: all due to this peaceful picketing. And the most unfortunate part of it is that, quite against the pious traditions of India, women are employed for the purpose of picketing. Sir, in India woman has always been held in very high respect. She has been considered as inspiring awe and is looked upon as a sacred thing, and if a stranger touched the body of an Indian woman, he would have been shot down immediately by her relatives. But what do we find now? We find that our Congress zealots send their young womenfolk in order to be arrested and touched by the strangers. This is the limit of it. Therefore, I submit that the worst of the evils which the Congress movement has done in India is through, what is called, this peaceful picketing and if you omit this clause, it would be better that the whole Bill were dropped. For these reasons, I strongly oppose the amendment and support the clause.

**Rao Bahadur B. L. Patil:** Sir, it is most unfortunate that the Congress has taken up the Swadeshi and picketing. It is equally unfortunate that the Congress has taken up the temperance movement and, I may add, that it is most unfortunate that the Congress prefers milk to tea! Certainly, these are movements and national work which ought to have been taken up by each and every individual of this country. Because Congress advocates these things, they have become odious. (*A Voice*: "Do you mean to say that the Congress people do not drink tea at all?") My point is this. We legislators ought to see what is good in a particular movement and what is bad in it. I beg to submit that in every good movement there is something evil. There is a proverb in my own vernacular that every light has its shadow. So, I submit that every good movement has its black side; that we must take for granted. Sir, I am alive to the excesses the Congress people do. I know and I have heard many harrowing tales told by the victims of Congress workers. But we must, first of all, see what Congress in reality preaches. Does it preach violence? Does it preach excesses? No. Then, we must see what the advocates of the Congress are actually doing? We should not mind what the riff-raffs, who do not understand the principles of the Congress, do. They are the people who are led away by the superficial; they are the people who do not understand the theory or the principles of the Congress.

**Sir Muhammad Yakub:** This clause is meant for them and them alone.

**Rao Bahadur B. L. Patil:** If this clause is meant for such people, why do you not provide a similar clause for the excesses of Government officials? Do you not see every day that in quelling the civil disobedience movement the laws of the country are abused and Government officials often practise excesses? Volumes can be written of excesses in this country. Therefore, I beg to submit, that it is not the excesses that should be our standard in judging the movement. It is the underlying principle and the object which we have got to take into consideration. Therefore, I beg to submit to this House that we should take into consideration the real object and not the excesses—excesses committed both by some of the Congress workers and by some of the Government officials.

Then, Sir, this clause aims at each and everything. It stands in the way of encouragement of Swadeshi, advocacy of temperance and probably in the way of removal of untouchability and progress of social reform and the preservation of orthodoxy. The whole point is that it stands in the way of advocating one's own point of view, of whatever colour it may be. Therefore, it is up to the legislators to examine this clause clearly and analyse it fully. Now let me draw the attention of the House to the first portion of sub-clause (1) (a). There, so far as the words "obstructs, uses violence and intimidates" go, I have absolutely no objection. Such kinds of acts may be punished by the existing sections in the Indian Penal Code. In my opinion, sections 341, 352 and 503 are sufficient to deal with cases that come under these three kinds of intimidation. But if we take into consideration the other part of the sub-clause, we will find that it is so vague that it will certainly lead to injustice.

My Honourable friend over there, Mr. Sorley, compared the provisions of this clause to the provisions of the Trade Disputes and Trade Unions Act of 1927, section 3 (17 & 18 Geo. 5, c. 22). The fundamental difference, in my humble opinion, between the provisions of section 3 of that Act and this clause is this. By this clause we are creating a new definition of intimidation. There the definition of intimidation is intact. He has placed his argument before us to the effect that that section too contains the words "watching" and "besetting" and the words in this clause are also similar and, therefore, there can be no objection to accepting this clause. Sir, if we closely examine section 3 of the Trade Disputes and Trade Unions Act, we will see that that section clearly retains the definition of intimidation. That definition includes, as it here includes, only more serious things. For the benefit of my friend over there, let me read a few lines from that section:

"It is hereby declared that it is unlawful for one or more persons \* \* \* to attend at or near a house or place where a person resides or works or carries on business or happens to be, for the purpose of obtaining or communicating information or of persuading or inducing any person to work or to abstain from working, if they so attend in such numbers or otherwise in such manner as to be calculated to intimidate any person in that house or place, or to obstruct the approach thereto or egress therefrom, or to lead to a breach of the peace; and attending at or near any house or place in such numbers or in such manner as is by this sub-section declared to be unlawful shall be deemed to be a watching or besetting of that house or place within the meaning of section seven of the Conspiracy and Protection of Property Act, 1875."

Therefore, this clause does not stand any comparison with that section. Sir, I am personally convinced that though picketing in certain cases leads to excesses, it can be controlled by enlightened public opinion and propaganda in the press; and, I am sure, after so much experience public opinion will not favour any excesses on the part of Congress workers.

We must, I think, look to the main object in picketing. Picketing certainly is not a political weapon; it is meant only for the purpose of encouraging Swadeshi and doing away with certain social evils.

Then, Sir, let me go to the *Explanation*. My Honourable friend, Diwan Bahadur Harbilas Sarda, has fully dealt with the *Explanation*. In my humble opinion also, it is as good as not being there; it is simply axiomatic. It says that what is not an offence under this clause is not an offence. Certainly it was very creditable on the part of the Honourable gentlemen who worked in the Select Committee to have introduced this *Explanation*. It allows us to carry on our propaganda with regard to Swadeshi and temperance, sitting all alone in our rooms and perhaps burning the midnight oil.

Then I go to sub-clause (2) which also has been added by the Select Committee. There I take exception to the words in the last sentence, "by a police officer not below the rank of officer in charge of a police station". Sir, it is a common experience that very often the officer in charge of a police station is only slightly better than an ordinary constable. A head-constable can sometimes be an officer in charge of a police station. Can we arm such an official with these wide powers? That I leave to the House to decide.

Then let us go to the procedure which is provided under this clause. We will find that it is considered to be one of the most heinous offences. In the first place, it is not bailable; and, secondly, the accused may be arrested without a warrant, and the parties are not allowed to compound it, that is to say it is not compoundable. The accused may be arrested without warrant and the parties are not allowed to compound it. It is not compoundable. If a particular person is aggrieved by the act of the accused, why should it not be kept open for that individual to compromise the case with the accused? What is the heinousness in this offence I for one cannot understand. I expect some explanation from the Honourable the Law Member with regard to this stringent provision so far as the procedure is concerned. Then, my Honourable friend, from Bombay, Mr. Sorley, gave a number of illustrations and he referred to some incidents that took place in the city of Bombay. As a matter of fact, I happened to be present at the time when one of them took place. It was the case of the Parsi lady who had made purchases in the Hornby Road; I was looking over there from the window of my hotel, and I want to bring to the notice of the House what happened in that case. The picketers concerned were two young boys, one of about 14 years of age and another of about 16 years. It is reasonable that we should make proper allowance to the tender age of the boys. Unfortunately the movement has attracted young boys and girls; we cannot help it; but how many are such cases? Such cases are few and far between and by simply exaggerating these cases we should not enact this clause which would go to prevent and almost give a death blow to the Swadeshi movement and the temperance movement and, above all, curtail the liberty of individuals of this country. Therefore, I am in full agreement with the Honourable the Mover of this amendment and wholeheartedly support him.

The Assembly then adjourned till Eleven of the Clock on Wednesday, the 30th November, 1932.









# LEGISLATIVE ASSEMBLY.

*Wednesday, 30th November, 1932.*

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The Assembly met in the Assembly Chamber of the Council House at Eleven of the Clock, Mr. President (The Honourable Sir Ibrahim Rahimtoola) in the Chair.

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## QUESTIONS AND ANSWERS.

### SEPARATION OF BURMA FROM INDIA.

1522. \***Mr. S. C. Mitra** (on behalf of Mr. Bhupat Sing): (a) Will the question of the separation of Burma from India rest entirely on the voting of the Burma Legislative Council or will a Second Burma Round Table Conference be called to give the final verdict?

(b) Is it a fact that the decision now taken will be conclusive and final for all time to come? If so, what is the special reason for this?

(c) Will Burma be represented at the Third Round Table Conference in view of the results in the recent election? If not, why not?

(d) Are Government aware that the subject has aroused much public attention in India and are they prepared to allot a special day for its discussion in the Assembly as early as possible?

**The Honourable Sir Brojendra Mitter:** (a), (b) and (c). I regret it is not possible for me to make any statement in reply to these parts of the Honourable Member's question until the separation issue has been debated and voted upon in the Burma Legislative Council. In this connection I invite the Honourable Member's attention to the Reuter's report of the replies given by the Secretary of State in the House of Commons on the 16th instant to questions on the subject.

(d) Government are aware of the public interest in the question. They do not propose to allot a special day for its discussion.

**Mr. K. Ahmed:** In view of the fact that India is not yet separated and it is still under the supervision, control,—and what is the other thing? (Laughter)—direction, do Government propose to make a statement on the subject stated in the question, because it is relevant to this issue?

**The Honourable Sir Brojendra Mitter:** I do not understand the question, Sir. There is no question of separation of India.

**Mr. K. Ahmed:** I never said the question of separation of India, I meant the separation of Burma from India. Do Government propose to give an answer since the direction, control and supervision are in their hands, and they are responsible?

**The Honourable Sir Brojendra Mitter:** Answer to what?

**Mr. K. Ahmed:** The answer to the question I have put on the floor of the House.

**The Honourable Sir Brojendra Mitter:** I have answered that.

**Mr. K. Ahmed:** That is no answer. That is a denial of answer. In view of the fact that it is clearly implied from the answer given that the Government of India have shaken off their responsibility and in view of their denial to give an answer under the circumstances, do Government propose to state what their own experience of control, supervision and direction for the province is at present?

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member keeps on repeating these words.

**Mr. K. Ahmed:** Yes, Sir; the question was put to the Government, and the Honourable the Law Member will not appreciate it.

**The Honourable Sir Brojendra Mitter:** I said in answer to the question that it was not possible for me to make any statement until the separation issue had been debated and voted upon in the Burma Legislative Council. I have no other or better answer to give.

**Mr. K. Ahmed:** Then do I take it that the responsibility for direction, supervision and control has been given up by the Government of India, that the Honourable Members of this House are not to ask any questions and that they will have to depend on the Burma Legislative Council?

**The Honourable Sir Brojendra Mitter:** The assumption is unwarranted.

**Mr. H. P. Mody:** Are we to understand from the reply given by the Secretary of State in Parliament that the Government of India and the British Government propose to lay down for all time to come the policy which the Federal Government is to adopt on this question?

As the Honourable Member has not apparently understood me, I would like to remind him that the Secretary of State made a statement that Burma's choice shall be irrevocable. Are we to understand that the British Government and the Government of India propose to lay down for all time to come that the Federal Government will have no rights in the matter?

**The Honourable Sir Brojendra Mitter:** This is a matter which is within the competence of His Majesty's Government. The Government of India are not in a position to make any statement one way or the other as to

what the policy of His Majesty's Government will be in the framing of the new constitution.

**Mr. H. P. Mody:** Do the Government of India propose that the Round Table Conference should at least have a say, or are they content to leave the whole question to His Majesty's Government?

**The Honourable Sir Brojendra Mitter:** This is a question which I am not in a position to answer.

**Mr. K. Ahmed:** What is the reason?

**The Honourable Sir Brojendra Mitter:** The reason is that this is a matter which is within the control of His Majesty's Government and not within the control of the Government of India at the moment.

**Mr. K. Ahmed:** Since when? (Laughter.)

**Sir Hari Singh Gour:** Though the Honourable the Law Member cannot answer that question, it is within his special domain as Law Member to answer this: is it not constitutionally sound that the federating units can by contract make a federation and by contract rescind it?

**The Honourable Sir Brojendra Mitter:** So far as I know constitutional law, there is no absolute law to that effect. No two Federations are alike and, therefore, you cannot say that this is the immutable law of Federation. What form the new Federation will take is not known to us, and, therefore, I am not in a position to answer that.

**Dr. Ziauddin Ahmad:** Have the Government of India sent any communication to His Majesty's Government about the separation of Burma, and, if so, what is the purport of it?

**The Honourable Sir Brojendra Mitter:** I am not in a position to disclose what communication was sent by the Government of India on the subject to His Majesty's Government.

**Mr. H. P. Mody:** In view of the statements which have so frequently been made, do the Government of India support the position that Burma, if she chooses to enter the Federation, can never get out of it?

**The Honourable Sir Brojendra Mitter:** That is a matter which will be discussed by the Round Table Conference. I do not see how the Government of India at this stage comes into the picture at all.

**Mr. H. P. Mody:** Have not the Government of India an opinion on the subject?

**The Honourable Sir Brojendra Mitter:** Oh, yes, undoubtedly the Government of India have an opinion as the Honourable Member has an opinion.

**Mr. K. Ahmed:** What is that? (Laughter.)

**The Honourable Sir Brojendra Mitter:** That I am not going to tell you.

#### INDIANS TRAINED AS GROUND ENGINEERS IN ENGLAND.

1523. **\*Mr. Jagan Nath Aggarwal:** (a) Will Government kindly state the number of Indians trained as Ground Engineers in England who are at present in India; how many are employed and on what pay? What steps are Government taking to give them preference over non-Indians in employment in Flying Clubs and other companies?

(b) Is it a fact that "A and C" Ground Engineers cannot be full-fledged ones, unless they possess "B and D" Licences, which are acquired after practical experience and initiative, and are Government prepared to insist on the employment of Indian "A and C" Ground Engineers as Assistants in different Flying Clubs, so that they may acquire the necessary experience and initiative for "B and D" licences?

(c) Are Government prepared to direct the different Flying Clubs in India to report periodically as to whether they have employed Indians as such Assistants and also make the grant of subsidy conditional on the employment of such Assistants?

**The Honourable Sir Frank Noyce:** (a) Government have no definite information as to the number of Indians at present in India who have been trained in England as Ground Engineers. A list of Indian candidates trained in England who have applied for employment or for the grant of Indian Ground Engineer's licences is laid on the table giving the information required, as far as it is known, Government have already brought to the notice of Flying Clubs that they should give preference to Indians for employment, when suitably qualified candidates are forthcoming. There are only two aircraft operating companies at present in India, namely, Tata Sons, Limited and the Indian Air Survey and Transport, Limited. Both these firms employ Indians but Government cannot compel them to do so. By the terms of the agreement between Government and Tata Sons, Limited, however, the company undertakes to employ Indians when suitably qualified applicants are available.

(b) Owing to the fact that there are at present no aircraft and aero engine factories in existence in India, it is not possible for Indians to gain the full experience required in categories "B" and "D" of the Ground Engineer's licence in this country. The statement already laid on the table shows that the majority of the Ground Engineers trained in England who have returned to India have been found or have found employment. In addition to those enumerated in the list, other ground engineers who have been trained in India are employed by the Flying Clubs. Government have always urged the employment of Indian Ground Engineers as Assistants where suitable.

(c) Reports are already received from the Flying Clubs showing the number of Indians employed. In view of the facts stated above, it is unnecessary to impose the condition proposed.

*List of Indians trained in England as Ground Engineers who have applied for employment or the grant of Indian Ground Engineers licences.*

Name.	Nature of employment.	Salary.
R. P. Nair . . .	Was until recently employed as officiating Ground Engineer on a salary in charge of the Madras Flying Club during the absence of the Principal Ground Engineer on leave. Is at present employed as honorary Ground Engineer at the Delhi and U. P. Flying Club, Delhi.	
M. L. Sodhi . . .	Is at present employed as Ground Engineer in charge of the Kathiawar Flying Club.	Not known.
T. N. Khatri . . .	It is understood that he has recently proceeded to England for further training.	
H. D. Bharucha . . .	Is employed as a pilot with Tata Sons' Karachi-Madras Air Mail Service.	Not known.
J. L. Castel . . .	Is employed as Assistant Ground Engineer with the Bombay Flying Club. Recently took charge of work at the Club in the absence of the Chief Engineer on leave.	Believed to be Rs. 300—400 p. m.
M. P. Chablani . . .	Is employed as Ground Engineer in charge at the Cawnpore centre of the Delhi and U. P. Flying Club.	Not known but is believed to be approximately Rs. 300 p. m.
H. S. Bawa . . .	Is employed with Messrs. The Do Havilland Aircraft Co., Karachi on a nominal salary with a view to his gaining experience for employment as Assistant Ground Engineer with the Bombay Flying Club.	Rs. 100 p. m.
B. K. N. Rao . . .	Is at present employed as a pilot with the Madras Flying Club.	Not known.
A. B. Ray . . .	Is understood to have found employment with a private aircraft owner in Bengal.	Not known.

**Mr. Arthur Moore:** Will the Honourable Member be pleased to say whether it is intended to start a school for the training of Ground Engineers in this country?

**The Honourable Sir Frank Noyce:** I am afraid I must ask for notice of that question.

**Mr. F. E. James:** In answer to the main question, the Honourable Member stated that Indians would be given preference. Does the term 'Indians' include Anglo-Indians also?

**The Honourable Sir Frank Noyce:** I think so.

**Mr. H. P. Mody:** Does it include Parsis?

**Mr. K. P. Thampan:** May I know the number of Flying Clubs in India and the number of Ground Engineers these Flying Clubs are capable of employing?

**The Honourable Sir Frank Noyce:** Will the Honourable Member please repeat his question?

**Mr. K. P. Thampan:** I want to know the number of Flying Clubs in this country and the number of Ground Engineers each Club is capable of employing?

**The Honourable Sir Frank Noyce:** There again I have not got the information in my head. I think there are six Flying Clubs in India, but I cannot state the number of Ground Engineers employed by them. I shall be glad to make inquiries and then let the Honourable Member know.

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#### THE CRIMINAL LAW AMENDMENT BILL—*contd.*

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Further consideration of Mr. Jadhav's amendment:

"That clause 7 of the Bill be omitted."

**Mr. B. Sitaramaraju** (Ganjam *cum* Vizagapatam: Non-Muhammadan Rural): Even the gallant Knight of Moradabad is dissatisfied with the provisions of this clause. His dissatisfaction is not that this clause is bad, but his dissatisfaction is that this clause is not as bad as it ought to be. To use his own words, it is not as apprehensive as it ought to be.

**Sir Muhammad Yakub** (Rohilkund and Kumaon Divisions: Muhammadan Rural): Comprehensive I said.

**Mr. B. Sitaramaraju:** My Honourable friend says that he wanted to say comprehensive. But it makes no difference to me, because, according to my Honourable friend, the provisions of this clause are not as wide as they ought to be. There I congratulate the Honourable gentleman for the courage of his conviction, a conviction evidently . . .

**Sir Muhammad Yakub:** Do you mean conviction of the Congress volunteers?

**Mr. B. Sitaramaraju:** . . . a conviction influenced undoubtedly by the memory of a thirst in the bar room, but the agony of that thirst is, I am afraid, lost on this side of the House in our agony over the provisions of this Bill during the last four or five days. (Laughter.) But I would respectfully ask my Honourable friend from Moradabad whether, as a legislator who ought to inspire people with humanity, he would not think it better that he should set an example himself. He referred yesterday to the women who partook in the civil disobedience movement. I would request him to show respect to those lives and the circumstances which influenced their sensitivities. They have played a prominent part in the

political life of this country at great sacrifice. As a member of the Select Committee, I would like the gallant Knight of Moradabad to explain to me what this *Explanation* means. Yesterday one Honourable gentleman said that on a perusal of this *Explanation*, the ordinary meaning which one can attach to it, would show that what is not an offence under this clause is not an offence under this clause. (Laughter.) That seems to me to be the plain meaning of this *Explanation*. The Honourable gentleman has not, in spite of the opposition to this *Explanation*, chosen to explain what it really means. The *Explanation* was added in the Select Committee, and it was evidently made for the purpose of satisfying some member in the Select Committee that the encouragement of indigenous industries and the advocacy of temperance are taken out of the purview of this clause. I wish to sympathise with that Honourable Member who has undoubtedly been the victim of a confidence trick. The clause, as I have said, in no way helps the encouragement of indigenous industries or the advocacy of temperance, and as my Honourable friend to my left is saying, it is nothing short of a fraud. We hear so much from day to day in the English press that "Buy British" is a virtue. What is a virtue in England appears to be a vice in this country. We know, when the Ordinances were being worked, that even some of the Swadeshi shops which had nothing to do with the Congress movement were closed. In this country "Buy Indian" is a crime and "Buy British" is a virtue. I remember, several years ago, during the days of the Partition of Bengal, it was a crime to cry "Bande Mataram". At that time we were in the schools and we were treated to a substantial dose of loyalty. We were asked to sing songs of loyalty, and what was considered to be a crime was transferred into virtue by crying *Bande Matapitaram*. We must give a little bit of credit to students for commonsense. Patriotism cannot be instilled, nor can it be discouraged and prohibited by official or executive action. The clause is very wide. When we come to some of its provisions, we find that even an overt act is not necessary to come within the clause. A mere loitering near a shop or the residence of any businessman or official is a crime under this clause. Mere intention would constitute an offence under the provisions of this clause. May I ask, how that intention is to be proved? Who can judge whether the mere loitering or walking up and down a residence is with the intention of depriving a person of the liberty of doing his legitimate business. Again, not only loitering, but it would be an offence to commit "any similar act". And yet my Honourable friend from Moradabad would say that the clause was not wide enough! I do not know exactly what is intended to be covered by this phrase "any similar act". I would consider that the mere walking up and down a street where the house of an official is located or the residence of a businessman is located, would be construed to be an offence, and it would be in the discretion of the official who is to administer this law whether the person concerned had that intention or not, for it is not susceptible of proof in a Court of law when you constitute a mere intention as a crime. This clause necessarily must give power to a class of inferior men, where a singular necessity combines in its exercise all the causes of partiality and all the characteristics of injustice. I would like to add one word more, and it is this. Government ought to bear in mind, laws, however sanguinary, have always showed tendency to render men cruel by fear, by imitation and by fostering a spirit of revenge. Mild laws humanise a nation. The spirit of Government is reproduced among its citizens.



**Mr. B. N. Misra** (Orissa Division: Non-Muhammadan): We have heard the Honourable the Home Member say that this Bill was intended to combat the civil disobedience movement and the terrorist movement. As for the terrorist, no combat is necessary. They attack others with a pistol in one hand and poison in the other, and, after fulfilling their object, they take the poison themselves. They are beyond any body's power. They go beyond the pale of humanity and no law is necessary for them. Nor do we represent them or like them. As for the Congress, they have their own activities and the Government have their own activities. In the beginning, the Congress programme was one of simple non-co-operation and it has developed now into non-violent civil disobedience. The several phases of the movement are known to us all. Government have been trying to combat this movement and no side can be said to have been defeated.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): This general discussion has been going on for a considerable time. Will the Honourable Member specifically deal with this clause?

**Mr. B. N. Misra**: Yes. Now, take loitering. I do not know exactly what it means. If it means walking up and down or coming near, I think the Home Member has committed a blunder in not putting some other words there. We have heard of people prostrating before a car. Is that also included in the word "loitering"? Otherwise he is guilty of a grave omission which will perhaps crumble the British Empire to dust and paralyse the Government here. No one on this side thinks that a man by simply prostrating can paralyse the Government. We remember the saying: "The dogs bark and the caravan goes on." The administration will go on and Government will not be paralysed by this sort of action. Prostration is not molesting a man. Now take the words "similar act" in the clause. Can any Magistrate define what "similar act" means? I think the wording must be more clear than this. I do not know how the Courts will punish a man for a similar act. Now, as regards these loiterers, who invites them—the Congress volunteer or the Government? I have an experience of this picketing. A boy of eight or nine years was in front of a grog shop asking people not to drink. I do not know whether that will be considered as temperance movement or paralysing the Government. Then, immediately, four constables, *lalpagriwallas*, red-turbanned people, turned up. That excites the feeling of the people. These loiterers are invited more by the *lalpagriwallas* than by the Congress volunteers. Is it a vice to ask our fellow brethren not to drink? I think the loiterers gather more owing to the action of the Government who send the *lalpagriwallas* to deal with a petty matter like this. You give the dog a bad name and hang it. You call a man a loiterer and then punish him. We are not speaking of Congresswallas. They do not want to be defended by us. They go to jail voluntarily. They do not care to defend their case. They do not require us to oppose this law. The Congress volunteers do not even want us to speak on their behalf. What we are speaking about are those unfortunate people who come to the place out of mere curiosity. They see the *lalpagriwallas* and they come to see what the matter is. For that they will be punished. I say, these innocent people should not be punished, simply because they are there. With these words, I support the amendment.

**Sir Hari Singh Gour** (Central Provinces Hindi Divisions: Non-Muhammadan): I think there is considerable misapprehension on the part of my Honourable friends and others as to the real object we on this side of the House have in asking for the deletion of this clause. Looking over the various amendments I find from the speeches that have been so far delivered that my Honourable friends on this side are against what is called peaceful picketing for the promotion of indigenous industry and the prevention of drunkenness. Amendments which are probably similar to the amendment by Mr. Jadhav are those of Mr. Ramakrishna Reddi, Mr. Puri, Nos. 52 and 55 and 56, and also Mr. Mitra's. Now, the amendment we are now discussing is the deletion of the whole clause, whereas the arguments that are being addressed to you, Sir, are not arguments against the deletion of the whole clause but in regard to this amendment to protect peaceful picketing for the purpose of promoting indigenous industry and preventing drunkenness. That is the object. That would be amply met by moving the amendment to which I have referred which is low down on the paper book at page 5. I would, therefore, ask Honourable Members whether they should not concentrate on one of those selected amendments on which the discussion has proceeded so far, namely, that the Government should further amend the *Explanation* given in clause 7 and enlarge its provisions so as to prevent the prosecution of persons who are engaged in peaceful picketing for the purpose of promoting temperance or Swadeshi. I think we are all agreed that that is the object of all these amendments, and if we are agreed upon that, there should be no difficulty in uniting our forces to concentrate upon that one point, upon which Members on this side of the House feel and feel strongly.

Sir, in addressing this House the other day I pointed out that the terms of clause 7 were too wide and that the *Explanation* that had been added by the Select Committee did not serve the purpose which the members of the Select Committee must have had at heart, namely, to save peaceful picketing for the purpose I have mentioned. Let me, therefore, Sir, address you on that point. The *Explanation* says: "Encouragement of indigenous industries or advocacy of temperance, without the commission of any of the acts prohibited by this section." (Laughter from the Opposition Benches.) Now I would ask the Honourable the Home Member, is this not a contradiction in terms? How can I have peaceful picketing without committing any of the acts prohibited by this section? My friend, the Home Member, remembers the great agitation that was going on under the ægis of a gentleman who came to be popularly known as Pussyfoot Johnson, who went about picketing liquor shops and who was the pioneer of the great temperance movement which culminated in the whole of America going dry. Now, in India, long before the advent of the civil disobedience movement, we have had a very strong movement for the promotion of temperance and Swadeshi. It is wholly unconnected with any political movement: it is a purely social reform movement, engineered and worked and operated by pure and simple social reformers. It is true that the Congress, finding this a very suitable weapon for their political practice, have adopted it as part of their programme; but the mere fact that the Congress have adopted it as a plank in their civil disobedience platform should not make us blind to the fact that this movement has been existing in this country quite independently of the activities of the Congress: and if you wish to suppress the civil disobedience movement, you must at the same time safeguard that other movement

[Sir Hari Singh Gour.]

against which you have nothing whatever to say. Sir, if I go out in the evening on the high-way for a walk and I find that that road is also haunted by pickpockets, would it behove the Government to close down the whole road on the ground that that road is used occasionally by pickpockets?—and that is what they are trying to do. Sir, under the guise of suppressing the civil disobedience movement, they are trying to suppress—not intentionally but in effect—all peaceful picketing, which might result in the suppression of all those social reform activities that are directed towards the promotion of abstinence and the cultivation of a national Swadeshi spirit. I, therefore, submit that these amendments which are printed on page 5, particularly amendments Nos. 55, 56 and 57, require our serious consideration, and I would ask the Honourable the Law Member and the Honourable the Home Member to ponder over the suggestion made from this side of the House and see that the *Explanation* is altered so as to safeguard this perfectly legitimate, if not commendable, scheme of social reform.

**Sir Abdur Rahim** (Calcutta and Suburbs: Non-Muhammadan Urban): Mr. President, I wish just to say one word about this matter, especially in connection with what has been said by my Honourable friend, Sir Hari Singh Gour. My Honourable friend is anxious that Swadeshi should be encouraged and also the cause of temperance. Sir, I entirely agree with him and I believe the whole country is at one with him in that respect, but may I suggest to my Honourable friend, the Leader of the Nationalists, that there is another very effective way of achieving his object and that is to give preference to all British goods, including ale, beer and spirits. Will not both the cause of temperance and Swadeshi be equally served if we adopt the policy of preference?

**Mr. S. C. Sen** (Bengal National Chamber of Commerce: Indian Commerce): Sir, I accept the motion moved by my friend, Mr. Jadhav. We all know of excesses committed by the followers of the civil disobedience movement. Of course at the same time we see that there are excesses by the police. Certain instances were quoted yesterday about the excesses committed by the followers of the civil disobedience movement. I can quote hundreds of such excesses, but, at the same time, I can quote thousands of excesses committed in the name of law and order by the police. But it is not my purpose to dilate on that subject now. We are now concerned with clause 7. Now I differ from the opinion expressed by my Leader, Sir Hari Singh Gour, that our object is to safeguard the activities of social reform movements and of movements for temperance. Our objection is that this clause brings into its meshes everything connected with all activities of life, whereas it should have been confined only to the civil disobedience movement; and if by any means it can be stated that this clause only relates to the civil disobedience movement, probably our purpose would be served.

Sir, I may point out that in clause 8 a phrase has been used by the Government—"in furtherance of a movement prejudicial to the public safety". Why have they not said in this clause also that the person against whom this clause is to be operated must have been acting in furtherance of a movement against the public safety? That would have

included in this clause only a movement against public safety and not a movement which is in furtherance of temperance and of all other social activities including the parental duty towards the son. My object in rising now is to show that this clause not only covers the civil disobedience, but every other activity and it can be used or abused both against the innocent as well as the guilty. Sir, in our college days we heard that one of the principal ingredients of English Jurisprudence is that thousands of guilty persons may escape but not one innocent person should be wronged.

Now, my object is to examine clause 7 in the light of that adage and I will show that it works more against the innocent than against the guilty. Now, let us take the first portion of the clause which runs:

"Whoever with intent to cause any person to abstain from doing or to do any act which such person has a right to do or to abstain from doing,"

The object of this portion is to prevent another person to dominate another person's will and for that purpose certain other acts are mentioned here, namely:

"obstruction, violence or intimidation."

Now, Sir, my son may go astray; it is my duty to control him. For this purpose I obstruct him, I intimidate him. Do I not come within the mischief of this clause? The Honourable the Home Member pointed out that as safeguard against the abuse of that clause a provision was put in *Explanation 2*. He says that the Court can only take cognizance of an offence under this clause upon a report made by a police officer. Of course, he may think that all police officers are Buddhas or Christs, but I do not think that is so. I say that it will enable a police officer, if he so likes, to blackmail me. Similarly, it was stated by Diwan Bahadur Sarda only the other day that if he wanted to obstruct an old man of 70 from marrying he would come under this clause. Sir, the clause is so wide that it will bring into its operation everything where for the good of somebody else or for my own good I want to prevent another from doing an act which he has every right to do but which is regarded as a moral wrong. Therefore, I submit that the first portion of the clause must be confined before it can be accepted by this House to the operations of the civil disobedience activities. Now, let us take the second portion which runs:

"or loiters at or near a place where such person or member or employed person resides or works or carries on business or happens to be."

For the purpose of the illustration which I gave just now, I want to redeem my son from going to a house of ill-fame. I can't get hold of him. He is keeping himself in such a house. I keep persons there that loiter before the house for the purpose of catching the boy, and they come under this clause.

Then, Sir, it includes:

"or persistently follows him from place to place."

The same remark applies in this case also. Therefore, the first portion of this clause prevents every person from doing something which, in the ordinary circumstances, would be considered to be beneficial.

[Mr. S. C. Sen.]

Now, Sir, let us take the second clause which runs :

"loiters or does any similar act at or near the place where a person carries on business, in such a way and with intent that any person may thereby be deterred from entering or approaching or dealing at such place,"

I may have a shop side by side with the shop mentioned here. It is my interest that customers should come into my shop and not go to the other shop. But I deter his customers by my action of loitering near his shop or in front of his shop and prevent them by persuasion from entering his shop. No overt act is necessary; mere loitering is sufficient. I am told that this clause has been taken from the English Act, but the safeguards there are omitted. In the English Act, something more has been given and something more is required. The English Trade Disputes Act, which was referred to yesterday, says :

"if they so attend in such numbers or otherwise in such manner as to be calculated to intimidate any person in that house or place, or to obstruct the approach thereto or egress therefrom, or to lead to a breach of the peace."

Therefore, mere loitering by one person will not do. Loitering must be by several persons and in such a manner as to cause intimidation or fear in the customers who are going inside that shop. In this clause mere loitering has been made a ground for punishment. Sir, these are the factors which are to be taken into consideration and these are the factors which may be calculated to bring into its purview not only the persons against whom it is intended, but thousands and thousands of innocent persons who have nothing to do with the civil disobedience movement or with any other movement which is prejudicial to the public safety. Under these circumstances, and with these observations, I support the motion of Mr. Jadhav.

**Mr. S. C. Mitra** (Chittagong and Rajshahi Divisions: Non-Muham-madan Rural): Sir, with the laudable object of cutting short the debate, Sir Hari Singh Gour suggested and appealed to the Government to accept the amendment that dealt with peaceful picketing. But we, who are constantly watching the attitude of the Government in the House, can tell him that, however reasonable he may think it to be, Government are determined not to accept any reasonable amendment. It has been made clear, times without number,—and unfortunately Sir Hari Singh Gour was not present in the House during these debates—that Government mean to put a stop to peaceful picketing by this clause. They are not only opposed to violent picketing, but they are determined by this clause specifically to put a stop to what is known as peaceful picketing. I think the Honourable the Home Member will make it clear again by repeating the same thing, namely, that he intends to put a stop to peaceful picketing. So, Sir Hari Singh Gour may not have any misapprehension on that score. Sir, I have given no amendment for the deletion of this clause in the hope that if Government will see their way to accept any of the amendments that are given notice of about peaceful picketing, there will be no necessity for deleting the whole clause. We have conceded, unlike our friend, Raja Bahadur Krishnamachariar, that where obstruction or violence or intimidation are involved, they should, by law, be prohibited. We are agreeable to go to that extent, but when Government by this

very wide clause try to prohibit picketing—whether by peaceful means or attended with violence—and if they put both on the same level, then we insist that the whole clause should be deleted.

Not only the Honourable the Home Member, but the other gallant Knights, every time they get a chance, abuse the great Congress institution. The other day, Sir Muhammad Yakub said that, in the name of the Congress, ears have been cut off and people have been murdered and other atrocities have been committed. I should like to appeal to him that if the same logic were to be applied, in the name of religion, not in the middle ages, I am not now speaking of the Christian martyrs who were burnt alive, but even the other day, in this House, my Honourable friend, Pandit Satyendra Nath Sen, was arguing that there should be no interference by Government for removing untouchability, in the name of religion; and, on the same ground, in the streets of Calcutta a book-seller was murdered for publishing a portrait of the Prophet of Islam. I can cite innumerable instances of what has been done in the name of religion—much more than what one could contemplate having been done by the Congress. Should we make religion responsible for these atrocities? In the name of freedom, the atrocities of the French Revolution and the Russian Revolution have been committed. Is that any reason why there should be no propaganda for political freedom or freedom of thought? My Honourable friend's argument comes to that. He is an *ex-Speaker*, and so I cannot lightly brush his arguments aside. My Honourable friend, Diwan Bahadur Harbilas Sarda, made it absolutely clear that what Government want to prohibit is the sale of Swadeshi goods. If that is their intention, let them specifically say so. If there is obstruction or coercion or intimidation, by all means let the Government stop it. But do not frame a clause which, under the pretext of prohibiting these admittedly wrong things, put a stop to all propaganda in this country for the purchase of indigenous goods. Examples have been given by the Leader of the Nationalist Party. It may be said, if there are thefts, the effective remedy is to cut off the right hands of the suspects, and thus stealing may be put an end to. But is that a commendable thing? That is the logic of my friend, Sir Muhammad Yakub. He has forgotten that for the last forty or forty-five years the spirit of nationalism and Swadeshi that we can boast of was from the inspiration of the Indian National Congress. Certainly we do not subscribe to every phase of the modern Congress movement. We have said we do not support the Congress method of direct action. We have said, this boycott of the Legislatures was foolish. That is no reason why people should deery the Congress on every possible occasion and make it responsible for all possible wrongs. About this clause where is there anything about the civil disobedience movement? If we read it with a fair mind, we will see clearly that the clause is meant to protect the foreign trade in the country and that is quite patent to anybody. It is this kind of attitude that makes people suspicious about Government. Why should Government not allow the people of this country by peaceful persuasion and appeal to their sentiments to make sacrifices, if necessary, to encourage the purchase of indigenous goods? Thus they will be able to help the development of national industries. If the Congress persuades people to purchase Swadeshi goods, why should a third party, the police, interfere and arrest a person? The offence is not even bailable; and that is the point I should like to draw the attention of the House. As a true Briton, Sir Leslie Hudson says we are in the midst of war. He has the true Churchillian and die-hard

[Mr. S. C. Mitra.]

conservative mentality. If this piece of legislation is really a pretext of putting down civil disobedience, but actually meant to do propaganda for British trade—we cannot accept it. It is that which we are apprehensive of. We are not thinking of imaginary cases, we believe that true Swadeshim, honest Swadeshim, as one of the Viceroy's used to call it, will suffer. I will read to the House a letter addressed not to me personally but as the General Secretary of the Independent Party written by Virchand B. Setti and this shows how, in the name of law, even honest Swadeshi is being hindered. This is the statement of Mr.

12 Noon. Kashiram Lalobhai Mehta, a village schoolmaster and carrying on the work of village reconstruction in the village of Zinzavadar (Kathiawar):

"I, my sister Veniben and three students of mine, of late, move about in villages for the propaganda of Swadeshi and "*Bhajan kirtan*". We distribute leaflets about Swadeshi and village reconstruction published by Ramji Hansraj of Amreli and printed by Saraswati Printing Press of Bhavnagar. One copy of each of the leaflets is enclosed. . . . Over and above distributing these leaflets and singing "*Bhajan Kirtan*" (religious songs) we exhort the villagers to take to simplicity, to leave off bad habits and to use Swadeshi.

In connection with the above general programme, on the 12th instant, we happened to go to the village Khambhada in Dhandhuka district where, at the village chowra, a few persons gathered round us. I began to read the leaflets appended to the appendix when the village headman came there, thrust me in the chest with the butt-end of his lathi and ordered me to stop reading the leaflets. The people were all asked to disperse. All the five members of my party and Gopal, a Kumbi boy of the village, were put under arrest and carried to Utara, the village police *chowki*. At the *chowki*, they released Gopal asking him not to co-operate with people like us and snatched away from us all the Swadeshi literature, blank papers, pencils, holders, etc. We next were sent to Barvala, one of the four principal towns of the district, to the assistant police sub-inspector there. At night we were not given any food or bedding.

At Barvala the sub-inspector threatened us for the propaganda of Swadeshi and abused one of our party in profane language even though my sister was present there.

Next afternoon, we were taken to Dhandhuka, the principal town of the district, to the sub-inspector there, where our reception was not less hostile, and, over and above, abusing us, he threatened to prosecute me for the offence of kidnapping the two students who were with me. The same evening we were sent away by a train to Botad, outside Dhandhuka Taluka."

Sir, my Honourable friend, Mr. Sorley, cited some cases of abuse of Congress propaganda; if you will permit me during the third reading, I shall cite ten times the number of cases which he has cited of the abuse of powers by the police and lower grade officials throughout Bengal. I know similar atrocities are happening everywhere, but owing to the curtailment of the liberty of the press, the papers are afraid to publish anything. I have got piteous letters from editors of papers. They appeal to us and say that under the present Press law, they cannot give vent or publish even a hundredth part of the cases that are reported to them. And because these cases are not published by the papers, owing to liability to forfeiture, that is no reason to think that the country is, under the Ordinances, being properly governed. If Government really see their way to be reasonable, as Sir Hari Singh Gour said, if they are ready to accept the provision about peaceful picketing, certainly we shall withdraw all our amendments and will be agreeable to pass the clause for prohibiting picketing where obstruction or coercion or intimidation is involved. If that suggestion is not accepted, we shall support the motion for the deletion of the clause.

**Mr. Jagan Nath Aggarwal** (Jullundur Division: Non-Muhammadian): Sir, I rise to support the amendment on a two-fold ground. First, I carefully considered this clause and tried to see whether it was possible to amend it. From the attempt of the Select Committee to amend this clause, it is fairly clear that they have failed in the attempt. The clause is so wide and so involved that it is an impossible proposition to amend it and, therefore, I think the best way of dealing with it is to end it. The other reason why I support the deletion of this clause is that this clause is likely to be an engine of oppression in the hands of people who are vested with these powers. It is likely to lead to petty tyranny and to promote a feeling of autocracy among people. If you are out to give people powers of this most vague and indefinite kind, it is just as well to think what use is likely to be made of them. In fact it appears that in the framing of this clause the means used by the civil disobedience promoters were in the brains of the framers and all ideas of legal precision have been thrown to the winds in the drafting of this clause. Let me take these things one by one.

First, you find intention. They say that if this man has a certain intention, he shall be punished. What is the intention? The intention is to cause any person to abstain from doing or to do any act which such person has a right to do or to abstain from doing, which is, in short, to influence the volition of a person. You may have that intention with the most laudable of objects or with the most perverse of objects. You may have the intention of persuading that man to use indigenous things, you may have the intention that he should go dry or in the form of a *pater-familias* persuasion you may ask him to do some other thing. So that intention may be exercised in a variety of ways. All kinds of persuasion have that intention at its back. Therefore, unless you have that guilty intention, you shall not be punished. This intention is the simplest of all possible things which a man may have, whether a man is persuading or using that moral pressure which we use every day. With that very simple of intentions, some acts are punishable under the Penal Code. First take these words:

"obstructs or uses violence to or intimidates such person or a member of his family or person in his employ."

That, you will be pleased to notice, is an offence to a person, to a member of his family, or even to his servant. If my servant, when going to the market for purchasing a certain thing, is obstructed, a precarious kind of complaint will have to be lodged. Anybody can complain for what happens to him or to a member of his family or to his servant. A curious extension of legal liability is visualized here. The first part of it, "obstructs, uses violence to or intimidates" is covered by the Penal Code, but even in the first part you have a very large extension of it and that is the handiwork of the Select Committee.

Then, Sir, we go further. It may be possible to amend the previous part, but look at what follows. The next is, where with that intention he loiters at or near the place where such person, etc. Loitering is a word of very vague import. We used to have it in the Vagrancy section. If a man is a vagrant and has no means of livelihood and comes up against a policeman, he can be got hold of. But here it does not refer to a man without any means of livelihood or anything of that kind. You are loitering with the intention of persuading somebody. Then, "loitering at



[Mr. Jagan Nath Aggarwal.]

or near a place where such person or member or employed person resides or works or carries on business or happens to be''. It does not finish there. This is what takes one's breath away. This man or a member of his family or his servant goes to Connaught Place to buy a certain thing and somebody happens to be there. Immediately, not by the fact of the loiterer being there, but by the fact of this person going to Connaught Place, the thing becomes an offence. This man may be loitering there the whole day and the people of Connaught Place may not have the slightest objection to the presence of this person. He may be a candidate for one of the jobs that has fallen vacant with the words "No vacancy" staring him in the face; but the mere fact of his being there all day is no offence until one of these protected persons, a member of his family or his servant happens to come there. He happens to be there and, therefore, this person's loitering there, whatever that may mean, becomes an offence. I do not know whether any Select Committee on earth can improve on the words of this clause. Drafting in the Government of India used to be one of those things which we in the provinces always commended, but this will lead us to change our opinions. I do not know where words like "happens to be" are likely to lead us to. He has no business to loiter in any place where a certain person "happens to be". It is much better that such a "protected person" be locked up in a certain place.

Then we go further. A person with that intent "persistently follows him from place to place". He is like a beggar and, if he is doing it, it becomes an offence. "Or interferes with any property owned or used by him or deprives him of or hinders him in the use thereof". Now, Sir, the conduct of this person *qua* that man had become an offence, now the conduct of this person *qua* property becomes an offence. Sir, look at the vagueness of it. Trespass and other things you can punish, but now any man can come and say that because such a man was near his place he was afraid to go in. All cowards in the land will have a premium placed upon their cowardice and unnecessary fright. The man may say that he saw a nightmare and he did not like to enter, because of the white clothes this man was wearing. It really takes one's breath away and I think it is impossible to amend such a clause. Then, Sir, we do not stop there but go further. Loitering was by itself fairly ambiguous and vague so far as legal terminology went. We go further and we find "loiters or does any similar act". Loitering is bad enough, and doing any similar act means that if anybody approaches within a hundred yards of any person who does not like the look of his nose or the cut of his face or the shape of his coat, then it would be an offence. It is really impossible to improve upon this phraseology. Then:

"loiters or does any similar act at or near the place where a person carries on business, in such a way and with intent that any person may thereby be deterred from entering or approaching or dealing at such place."

It would amount to this: if anybody in the world is told that a ghost is white, then he could say "I could not even enter my house, because I saw that man in white and he looked like a ghost". This is a hopeless proposition to lay down and it is impossible of amendment. Our friends were very happy in having devised an *Explanation* which of all things is the biggest of frauds,—and I may be pardoned for using that expression—this *Explanation* is the very limit of legal tolerance that one can approve of. We are told that peaceful picketing and encouragement of Swadeshi or temperance would

not be an offence and the Honourable the Home Member and the Law Member must have put their heads together and with their tongues in their cheeks said: "Yes; we will allow these people to have this *Explanation*, because it explains nothing and it means nothing", as I shall presently show how the two Honourable Members have made a present of this to the opposition and to the whole country. If they had said "encouragement of indigenous industries or advocacy of temperance is not an offence under this section", it would be grand, but what do they say?—"without the commission of any of the acts prohibited by this section". What is not prohibited by this section? This section prohibits obstruction, use of violence, intimidation; it prohibits loitering at or near a place; it prohibits the following of a person, interference with property and any hindering or loitering or any similar act or being near a place which would prevent anybody doing anything. I would like most respectfully, without being frivolous, to know if it is possible to promote any Swadeshi or temperance without going near a person, without talking to him, without persuading him and using moral force or any kind of force, and without going to him or to his place? You cannot use any of these methods under this clause. You have to go near and you must do some propaganda; otherwise how is propaganda possible? This clause aims at the right of association, aims at the right of propaganda, aims at the right of people to go and talk to people and convert them to their views and it aims at all kinds of things. A clause like this, with this foolish *Explanation* added by the Select Committee, . . . .

**An Honourable Member:** It was added afterwards.

**Mr. Jagan Nath Aggarwal:** Added after the walk-out? I am very glad to hear that; if it was done after the walk-out, there is ample justification for those people to go back as that might lead to some improvement in the phraseology. This *Explanation* takes one's breath away. This *Explanation* is the most harmless and innocuous of *Explanations* that has ever been put into legal phraseology, and Sir Hari Singh Gour, my learned Leader, in his next edition of his Law of Crimes, can safely put it as one of the most harmless of legal *Explanations* that was ever brought before a legislative body . . . .

**Sir Hari Singh Gour:** Words without any meaning.

**Mr. Jagan Nath Aggarwal:** Then we were told that this sub-clause (2) is a great safeguard, and one of my learned friends pointed out that it was a real safeguard and I thought it meant that without the sanction of the Local Government or some such thing nothing could be done; but when I read it carefully, it means nothing more than an officer of the rank of an officer in charge of a police station can launch proceedings. That is the real thing. The whole point is that the police have got something on their nerves and some thing on their brains; and they see white everywhere; it is the white that is the real difficulty. I do not see why the liberty of a citizen in this land should be restricted by a legislative measure of this kind. If you want to restrict the liberty of every man in this land for a certain time, do it by a regular fiat of the executive; do not do it under the garb of a legislative measure. This is hopelessness in legislation and, as I said, it is an attempt to bring together in a compendious measure all kinds of sundry things which may have no connection with any legal offence. I, therefore, submit with all respect that this clause is impossible of amendment and should be deleted.

**Pandit Satyendra Nath Sen** (Presidency Division: Non-Muhammadan Rural): Sir, it is with great reluctance that I have to speak a few words on the amendment that is now before the House. I rise to support the amendment not because I actually want complete deletion of the clause, but because the clause has been very badly drafted, that is to say, because no law is better than bad law or mischievous law, because the former is the lesser evil than the latter. My grounds for rejecting this clause are three: first, because it is so badly drafted that it is hardly amenable to amendment; second, even if a reasonable amendment is proposed, it is certain that it will be refused by Government, and third, that this law has always been misused and abused by the police and is likely to be abused by the police in future, because it has the stamp of vindictiveness which has been made manifest in clause 9 (iv) that it is going to be made non-bailable. This clause 7 is directed against picketing and Swadeshi. I believe that there are very few Members in this House who are more closely connected with the sufferings of Swadeshi. All those that are near and dear to me—my two sons, my brother, my nephew, my niece,—all have been in jail once, twice or even thrice and they have been subjected to the most brutal treatment—caning, roping, beating and what not; and all this for peaceful and non-violent Swadeshi, quite in conformity with the Congress manifesto as was read out by my Honourable friend, Mr. Sorley, last evening. In spite of all this, as a peaceful citizen, from the true Swadeshi spirit which I have imbibed from my orthodox culture, I am against offensive picketing, because I regard that as a foreign import. I have already made it clear that I am not for complete deletion of the clause, because I feel that some of our countrymen are developing a tendency to thrust their own views upon others; and I now fully appreciate the dictum of John Stuart Mill that “there needs protection against the prevailing sentiment and feeling”. I would accept the clause if I could receive a guarantee from Government that it will be improved upon with proper safeguards. I say proper safeguards, not a safeguard like the one that has been suggested in the *Explanation*. Frequent references have been made to that *Explanation* and if I refer to it again, I have a special ground. When the discussion on clause 4 was going on, it was enunciated by the Honourable the Law Member that any addition which may be deduced from the principles of jurisprudence should be regarded as foolish. When that was enunciated by the Law Member, I wonder how this sort of *Explanation* could be allowed by the Chairman who happens to be a lawyer of great eminence. The addition of the clause “without the commission of any of the acts, etc.,” contained in the *Explanation* has made the reading of this *Explanation* much more ridiculous than it would otherwise have been. If it was not merely for the sake of clarity, I am inclined to take it as a mere hoax, and if the acceptance of my amendment which sought to specify some special grounds where Magistrates might take different views is to be regarded as foolish, I do not know how to characterise this *Explanation*,—may I with all humility call it idiotic?

**Mr. N. N. Anklesaria** (Bombay Northern Division: Non-Muhammadan Rural): That was from your Party.

**Pandit Satyendra Nath Sen**: That I do not know. It was allowed by the Chairman, and if it is so, I should like to put some questions to the Honourable the Law Member. First, at the time of discussion, did he or did he not realise the hollowness of this *Explanation*, and, second, if he did, why did he not point out the hollowness to the Members of the Select

Committee? My third question is, is he yet prepared, with the permission of the Chair, to delete that clause, that nonsensical clause which, if kept on the Statute-book, will be regarded as a reflection of the mental calibre of the Members of this Honourable House. (Laughter.) Sir, I do not want to prolong my speech as the Government are not in a mood to accept any of our reasonable amendments.

**Mr. H. P. Mody** (Bombay Millowners' Association: Indian Commerce): Sir, I am on principle opposed to incorporating in the ordinary law of the land provisions of such a drastic character as are embodied in this Bill. I cannot, however, support the entire deletion of this clause which is the object of the amendment before the House. I come from a City where picketing has been carried to lengths which have made organised economic life absolutely impossible. It would be difficult to conceive of the excesses which have been committed in the name of peaceful picketing were it not for the fact that we live in times which are abnormal. I, therefore, cannot possibly support the demand that there should be no provisions in the law of the land with regard to picketing.

A great deal has been said about the motives which have inspired those whose picketing activities have been most noticeable during the last two or three years. Even when the motives are of the most unexceptionable character, after all there is something like the liberty of the citizen, and you cannot allow the liberty of the citizen to be jeopardised, whatever the motives. It cannot, however, be said that in all cases these motives have been unexceptionable. Apart from the advocacy of temperance or of Swadeshi, there have been innumerable instances in which picketing has been carried on simply because an unfortunate shopkeeper or a householder, as the case may be, has made himself obnoxious to those who are organizing this movement. Now, Sir, if it was the case that this clause could not be altered or improved at all, then even if there have been excesses, I am not prepared to say that you should have a provision of this character, but I see there are several amendments which would make this clause unobjectionable, and which would carry out the object which, I think, we all have in view. I have not heard any of my Honourable friends contend that picketing has not been carried on to abnormal lengths. All that they have said is that this clause is much too wide and will engulf both the innocent and the guilty. I find, however, my friend, Mr. Anklesaria, has got an amendment, and it is one of many, which lays down that nothing in this section shall be deemed to apply to any act which is done without any coercive intent or which is not calculated to cause and does not cause any obstruction, violence, intimidation, alarm or annoyance to any person. I am inclined to think that if such an amendment were pressed, it would do away with a great deal of the objection which we entertain to the somewhat wide phraseology of this clause. Whether you haul up a man because he loiters near a house, or because he harasses a servant or family member of another, so long as the intention to coerce or the effect of coercing is not there, he could not be held liable. For these reasons, I am not prepared to support this particular amendment, but at the proper time I shall support such other amendments as, in my opinion, seek to do away with the obnoxious features of the clause.

**Mr. K. Ahmed** (Rajshahi Division: Muhammadan Rural): Will the Government accept it?

**Mr. H. P. Mody:** That is their look out. So far as I am concerned, I know what lobby to walk in on the particular amendments.

There is just one thing which I want to point out with regard to the *Explanation*. Several of my friends have characterised this *Explanation* in strong terms, and I agree with them. After all, is it intended by this *Explanation* that encouragement of indigenous industries or advocacy of temperance are the only things which can be advocated without the commission of any of the acts laid down in the clause? Supposing I take it into my head to advocate celibacy. Shall I be in trouble over it if I carry on its advocacy without the commission of any of the acts mentioned here? I say, this *Explanation* ought to go out altogether. It is not only the advocacy of temperance or encouragement of indigenous industries, but any kind of advocacy, no matter what it is, that ought to be outside the section, provided the prohibitions laid down have not been infringed. The *Explanation*, therefore, is not only silly, in my opinion,—but it is also dangerous. You ought not to have a proviso of this character, because it seeks to confine the immunity to two classes of acts, whereas it ought to extend to every class of act done in a lawful manner. While, therefore, I will not support the deletion of this clause, I shall certainly at the proper time press for the amendment of it.

**Mr. C. S. Ranga Iyer** (Kohilkund and Kumaon Divisions: Non-Muhamadan Rural): Sir, I was rather taken aback by the speech of the Honourable Member from Bombay. It is too early in the day to get mixed up whether for the Honourable gentleman who just spoke or, for that matter, the Leader of his Party who is not present, even though he made a rather unfortunate insinuation against the Leader of my Party. Sir, the Honourable gentleman who just spoke got mixed up with the *Explanation* which he condemned and the clause which he partly approved—Take away the *Explanation* and the clause falls to the ground, this is what he said . . . . .

**Mr. H. P. Mody:** I did not say that at all.

**Mr. C. S. Ranga Iyer:** The Honourable the Leader of his Party got mixed up with preference and picketing. Coming events cast their shadows before . . . . .

**Mr. R. K. Shanmukham Chetty** (Salem and Coimbatore *cum* North Arcot: Non-Muhammadan Rural): He mixed up ale and beer.

**Mr. C. S. Ranga Iyer:** My friend, Mr. Chetty, says that he mixed up ale and beer. That must make a poor cocktail to go to the head. (Laughter.) Sir, to talk of preference, while we are talking of picketing, is a presage of the combat on preference while we are today combating picketing. Coming events, as I said, cast their shadows before, and I prefer to deal with the substance when the time comes rather than the shadow, because even though the shadow may be bigger in size, yet the substance will be better in actuality. So much for preference.

And now, the Honourable gentleman from Bombay asked, how when you take away the *Explanation* the clause does not fall to the ground? The *Explanation* has been explained with various adjectives of a detrimental kind to the *Explanation* and the explainer's reputation. I for my part

think that the *Explanation* is certainly better; it makes the clause better; but I neither like the *Explanation* nor the clause. I want the deletion of both. You cannot delete the clause and keep the *Explanation*.

The Honourable gentleman said he came from a City demoralised by picketing. I hope that the Honourable gentleman is not ten years old. He is four times ten years to put it moderately. (Laughter.) (Mr. H. P. Mody: "Five times.") (Laughter.) He says five times. Were it so, he would have remembered that even in the absence of this law, ten years ago, when there was picketing in Bombay, it was possible to proceed against picketers of the kind he described, under the ordinary law. He knows the law. He knows the Penal Code. I am not a lawyer. There is a section in that Code, and he has read the intimidation section—section 506. That section is competent to deal with the class of people who have embarrassed him, who have embarrassed his comrades, and embarrassed all those who stand for this Ordinance Bill. I could not understand an Honourable gentleman standing on the floor of this House with a constituency to represent—I cannot understand Mr. Mody of all people standing up and saying that part of this Ordinance clause is good. Is this Ordinance Bill good like the curate's egg, in parts? (Laughter.) Sir, it is amazing that an Honourable gentleman with the reputation that he has should have approved in a kind of manner this clause . . . .

**Mr. H. P. Mody:** If my Honourable friend will allow me to interrupt him? (Mr. Ranga Iyer sat down.) I would say that if he had studied the subject at all, he would have known that the provision in the Penal Code, or wherever else it exists, was not at all adequate to the needs of the situation even when there was no civil disobedience movement. (Applause from Government Benches.) As a matter of fact, there was a demand sent up by several associations, including my own association, for the tightening up of the law, which is not even as adequate as the English law on the subject. (Cheers from the Government Benches.)

**Mr. C. S. Ranga Iyer:** I am satisfied with the punctuation of Official Applause with which Mr. Mody's observations were received. (Laughter.)

**Mr. H. P. Mody:** Does not my Honourable friend sometimes receive it too?

**Mr. C. S. Ranga Iyer:** I hope to get it.

**Mr. H. P. Mody:** You will, after a couple of days. (Laughter.)

**Mr. C. S. Ranga Iyer:** The Honourable gentleman is not only a lawyer, but a prophet (Laughter), and when I hope to get it, I believe I will get it not on an official motion, but on a motion that emanates from the Leader of my Party. (Cheers.) Sir, he said that the ordinary law has not been adequate. Does he think that the Ordinance Bill makes it adequate? If the Honourable gentleman were worried about picketing, he would have all these days not remained idle in this House, but tried to improve the ordinary law of the land, instead of applauding a clause in a most reprehensible piece of legislation—reprehensible from the Moderate and Opposition point of view, reprehensible from the Congress point of view, and reprehensible from the point of view of every lawyer or lover of the ordinary law. (Hear, hear.)

[Mr. C. S. Ranga Iyer.]

The Honourable the Home Member was saying yesterday,—while replying to my Honourable friend, Mr. Amar Nath Dutt, who with his characteristic stubbornness has been putting up a fight day after day—the Home Member said that when the Honourable gentleman from Bengal described them as impatient, they were sitting there day after day and thereby had shown that they were patient. I admit, though his “patience be a tired mare, yet she will plod”. But our patience, in fighting the Bill before us, is bitter, though the fruit that he reaps by the votes is sweet.

I can only say that if you take away the right of peaceful picketing, you are taking away one of the legitimate weapons of our people, and the *Explanation* which talks of encouragement of indigenous industries or advocacy of temperance does not justify the picketing of liquor shops, does not justify the picketing of shops of a certain kind where when foreign articles are dumped indigenous industries are put in danger.

As I said the other day, when we do not have the right of erecting our own tariff walls, when we do not control the tariff policy, when we do not have fiscal and financial autonomy, we must at least have the right of peaceful picketing. That right is being taken away by this political measure with a view to jeopardising the advance of the Swadeshi cause. For this reason, I condemn this clause. I oppose it lock, stock and barrel. (Cheers.)

**Hony. Captain Rao Bahadur Chaudhri Lal Chand** (Nominated Non-Official): After the suggestion made by the Leader of the Opposition and after the speech delivered by Mr. Mody, it was expected that the Honourable the Mover will stand up and ask for the withdrawal of this amendment. This he has not done, and there is no chance of his withdrawing the motion after the speech that we have heard last. (*Mr. B. V. Jadhav*: “No assurance from the Government Benches.”) I must congratulate Mr. Jadhav on the great courage, I won’t say boldness, he has displayed in moving, not a toning down of the picketing clause, but its complete deletion, after the prolonged debates both at Simla and here and decisive verdicts of this House on the previous clauses of this Bill. All of us know that if picketing is allowed to continue, the Congress would not mind the other clauses, and if picketing is deleted, Government would not care to have this Bill at all. In spite of this knowledge, Mr. Jadhav wants such an important clause as this to be thrown out; in other words, he wants the play of Hamlet to be staged without Hamlet. Sir, there is one more reason for my congratulating Mr. Jadhav. If there is any place where picketing has made peoples’ lives intolerable, as has been so ably pointed out by Mr. Mody, where the so-called riff raffs employed for picketing have brought bad name upon the Congress, where an ultimatum was given by the Congress which has thrown the greatest man of the day into prison, it is Bombay. It is in that Presidency that the Swadeshi millowners have kept the fire of disorder and lawlessness burning by giving large donations to the Congress for the civil disobedience movement. That being the case, it means great courage for an *ex-Minister* of that province to get up and ask for the total deletion of this clause. Mr. Sorley on this side was, therefore, fully justified in quoting instance after instance of the high-handedness of the agents of the Congress whom Rao Bahadur B. L. Patil has tried to brush aside by calling them riff raffs. Mr. Sorley has shown the absurdity of the movement in its nakedness, and no further arguments

are needed to supplement him. The Honourable the Raja Bahadur,—I am sorry he is not here today—treated us yesterday with his old arguments against the public servants and offered to produce documentary evidence from official records. He resented the remarks made by my Honourable friend, Mr. G. S. Dutt, the other day and challenged him by saying that he was prepared to bring certified copies. I may tell him that the instances that he quoted, and certified copies of which he promised to bring before this House, related to the period when he was practising in the mufassil in the last century. We have been moving very fast and conditions have since changed. In order to supplement his knowledge and in order to bring him up to date I may quote one instance, with your permission, Sir, in order to show under what strain the public servants, who have been abused so much in this House during this debate, have been working. Sampla is a police station 30 miles from this Assembly Hall. In the last week of October, the police force of that thana, which consists of 8 constables, two head constables and one sub-inspector, was subjected to severe attacks in three different villages. One constable was shot dead. Another constable had his leg broken and is lying in hospital, and the third had his arm broken. All this is the result of the propaganda that has been preached in villages against public servants.

**Mr. B. V. Jadhav** (Bombay Central Division: Non-Muhammadan Rural): By whom?

**Hony. Captain Rao Bahadur Chaudhri Lal Chand:** Need I answer that question? It has been going on for several years with impunity and I must say that Government has so far connived at it. But for the Ordinances things would have been worse. It is these Ordinances that have saved the country from revolution. My friend, Sir Muhammad Yakub, remarked yesterday that Government had not gone far enough and I noticed smiles on the Opposition faces. He did not point out in what way Government had not gone far enough and, with your permission, I wish to make good the omission. Government certainly have not gone far enough inasmuch as Government have allowed the burden of suppressing this lawlessness to be borne by peaceful citizens. They ought to have made a provision in this Bill in order to ensure that this extra burden that is being entailed and the extra expenditure that is being incurred, in order to suppress this movement, should fall on the shoulders of those only who are responsible for it. Government will, I hope, soon have to come before this House for this purpose and the Honourable the Finance Member will take note of it before he frames his budget.

Sir, I must confess that the measure proposed is liable to abuse in some cases and is drastic in its nature, but we ought to realise that the remedy ought to be always in keeping with the disease. Poisonous drugs are actually administered to some patients by the doctors. Cases have happened where patients have died because the doctor was careless or negligent. I would go further and say that there are black sheep among the public servants as well and we cannot expect everybody to be perfect. All that we should do is to bring particular cases to the notice of the Government and Government will, I am sure, take due notice of such negligence on the part of public servants. Times out of number Government have been reminded of the spirit of co-operation which the Opposition Members have shown in coming to this Assembly and Government have been warned not to tire their patience. With your permission, I may point out . . . . .



**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Will the Honourable Member explain how his speech is relevant to the clause now under consideration?

**Hony. Captain Rao Bahadur Chaudhri Lal Chand:** The trend of the argument that has been advanced so far . . . . .

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): At present we are dealing with this clause only.

**Hony. Captain Rao Bahadur Chaudhri Lal Chand:** I am referring to the speeches that have been made on this clause alone. Speeches have been made deploring the idiosyncrasies of police officers and other public servants.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Arising out of this clause. The Honourable Member has got to deal with this clause and the amendment seeking to repeal this clause. We have had on other occasions a comprehensive survey of the whole provisions of this Bill. That ought to stop now.

**Hony. Captain Rao Bahadur Chaudhri Lal Chand:** I accept your ruling and, without taking more time of this House, I will only submit that it will be expecting too much from this House to agree to the deletion of this clause and I oppose this amendment.

**Mr. Amar Nath Dutt** (Burdwan Division: Non-Muhammadan Rural): After the exhaustive arguments, both for the deletion and in support of the retention of clause 7, it would not have been necessary for me to rise up at all but for the speeches of the Official Member from Bombay, of my friend, Mr. Mody, and of my friend, Captain Lal Chand. To some of their remarks I propose to reply.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): It must be relevant to this clause.

**Mr. Amar Nath Dutt:** Certainly. Mr. Sorley was trying to give a large number of instances of picketing and I will tell Mr. Sorley how those, who were said to have been harassed, have behaved elsewhere and they do not deserve to be entrusted with the power of prosecuting for picketing, though no officer below the rank of an officer in charge of a police station can institute complaints under this clause. He began by saying that there was law breaking of two kinds, that of mass civil disobedience and picketing. I submit that this clause has nothing to do with mass law breaking, but it has certainly everything to do with picketing and although we do not find the word picketing anywhere in this clause, still I think that was the one word which was in the minds of the framers of this clause. So I think the use of the word "picketing" will be allowed by the Chair to be used by me and also be considered to be relevant to the subject we are considering at the present moment. My friend over there said that this clause was necessary, because the definition of criminal intimidation in the Indian Penal Code was not sufficiently exhaustive. That was his argument and he has a supporter from the

Presidency, to which he belongs, in Mr. Mody. He also says that the existing provisions are not sufficient and, therefore, such a clause is necessary. I wonder if the society and the law by which the society is kept up is progressing or deteriorating.

Since the days of Thomas Babington Macaulay, who framed the Indian Penal Code, my idea was that criminal law should become more humane, more civilised rather than that it should go back to those mediæval ages when "an eye for an eye and a tooth for a tooth" was the rule of law: and, Sir, to ask the Legislative Assembly at the present moment for a more exhaustive definition of the words "criminal intimidation" by introducing such a stupid clause, if I may be permitted to so describe it, as that which we are asked to adopt, is absurd. Sir, I said deliberately that this is a stupid clause, because I beg to submit that it restricts human right altogether and activities of every kind, however beneficial, as has been shown by Member after Member. That being so, I think, Sir, no man in his senses would try to put a stop to all human activities by the enactment of a clause like this and thus restricting the elementary rights and liberties of citizens, about which my Honourable friend, Mr. Mody, whom I do not see here now, waxed so eloquent.

Sir, the Honourable the Official Member from Bombay was pleased to give instances after instances of how Congress picketing goes on in his Presidency. I shall not tire out the patience of this House by quoting on the other hand instances after instances—and if it were necessary I would have given him a hundred thousand instances, instances which are related in these papers which I hold in my hand and given over to me by a responsible person, pointing the other way. It may be necessary for these papers to be referred to either by one Member or another later on at the time of the third reading of the Bill, when Mr. Sorley will find to his utter surprise and disappointment that instances of police oppression are more frequent, far more frequent than instances of police being oppressed, as my friend, who has been briefed for the Government, Captain Lal Chand, tries to impress upon this House.

Now, there is one other thing I wish to say with reference to this. He has been pleased to say that the extra expense should be borne by those who are guilty of breaking a law of this nature. I would invite my Honourable friend's attention to what is being done in my own unhappy province of Bengal under the provisions of Ordinance law. At Chittagong, they have been fined Rs. 80,000,—so he need not advise the Government as to what they should do. They know what to do and what not to do. My Honourable friend has also expressed the hope that Government will take due notice of such public servants as transgress the law. Sir, I wish that were so, as not in one instance but in countless instances they try to shield the offender and at times encourage them by promotion and titles. That being so, I beg to submit that to invest any officer in charge of a police station with the power to institute complaints against having transgressed this clause is something to which we cannot be a party and I do oppose it and support the deletion of this clause.

**The Honourable Mr. H. G. Haig** (Home Member): Sir, the amendment before the House proposes the deletion of one of the most vital clauses of this Bill, for, as Honourable Members are well aware, the method of picketing, against which this clause is aimed, is perhaps the most

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characteristic and the most effective of those methods by which the Congress movement of civil disobedience is being supported and continued. It is, in fact, in our opinion, a most powerful engine of tyranny. I need not enlarge on the details which are well-known to Members of this House. The facts were given in a convincing way yesterday by my Honourable friend, Mr. Sorley. It has been suggested that while certain undesirable conditions may attend this picketing, these are accidental, that they are not part of the policy which underlies the movement. Well, I must entirely deny that suggestion. The manifestations which attend picketing lie at the root of this method. They are precisely the manifestations which picketing is intended to produce and invariably does produce. As Mr. Sorley explained to the House yesterday, one of the most common things is that when picketers stand in front of a shop, crowds collect, and, through the presence of those crowds, that species of intimidation and coercion is applied to the shopkeeper which the Congress people intend should be applied. But there are also more subtle methods: the picketers stand sometimes in front of a shop to watch what happens, and both the customers and the shopkeepers know perfectly well what that watching is intended to lead up to. What happens is always reported to the headquarters of the Congress organization. It is a species of spying of what goes on with a view later on to applying further methods of coercion to those who have dared to disregard the orders of this unlawful organization.

**Mr. D. K. Lahiri Chaudhury** (Bengal: Landholders): The same is the case with the C. I. D. men when they loiter.

**The Honourable Mr. H. G. Haig:** Well, Sir, what we wish to prevent by enacting this clause is action which goes beyond plain argument or persuasion. It has been alleged by a number of Honourable Members that in fact, if this clause is passed into law, people will be unable to conduct the ordinary methods of propaganda. That was the point that appeared to weigh with my Honourable friend, the Leader of the Nationalist Party. He said the Swadeshi or the temperance movement might be handicapped because people were not allowed to use, in furtherance of them, the methods of picketing. But, Sir, surely all the ordinary methods of propaganda are still open to those who believe in these movements. They can advocate Swadeshi or temperance by 1 P.M. speeches; they can advocate them by the distribution of pamphlets. The story which my Honourable friend, Mr. Mitra, mentioned to us this morning is one which appears to me to have no bearing on the actual terms of this clause. Under the terms of this clause, it is no offence to distribute pamphlets in favour of Swadeshi or anything else. It is no offence at all. It is no offence to write articles in the newspapers or hold meetings to conduct any ordinary, normal, straightforward propaganda. What is an offence is to go beyond the ordinary methods of reasonable persuasion and to attempt in whatever way to coerce people, to intimidate them, to annoy them, to pester them into agreeing with you when you are unable to convince their intellects.

Now, Sir, my Honourable friend, Mr. Aggarwal, taking, I think, too modest a view of his own capabilities, made the same point and suggested that no propaganda was permissible under this clause. It is nothing of the sort. Under this clause, Mr. Aggarwal is perfectly at liberty to

persuade in his very convincing language everybody he can. What he is not permitted to do is, having failed to persuade them, to follow them about, to stand in front of their houses, to threaten them, to intimidate them. And why should he wish to adopt these methods? Can he not be content with his own persuasive tongue? We know, Sir, that the Congress is not content with persuasion. We know, if Honourable Members did me the honour of listening the other day when I read out an extract from the Bombay Congress Bulletin, that their object is, in the first place, if they can, to persuade, but everybody is aware that behind that primary intention of persuasion lies the resolution to force their opinion on other people if they cannot persuade them. They said so in the plainest language in that Bombay Congress Bulletin; failing persuasion, they adopt direct action. It is that mentality which is at the root of all this picketing. They start off by an action which, on the face of it, looks harmless. Everybody knows that if they do not agree or fall in with the policy of the Congress, then they are going to be coerced by them in one way or the other. Sir, what we have in this clause is merely a prohibition of the element of coercion.

Now, Sir, there are certain safeguards attached to this clause of which little mention has been made. In the first place, we recognise that provisions of this nature are unusual. They would not be required if there were not in existence a definite attempt on the part of a certain section of the community to force other people to their own will. We have, therefore, provided that this clause should not come into operation except in an area in which the Local Government may direct that it should come into force. That means, Sir, that unless these methods are being followed on an organised scale, the picketing clause will not be in operation and, therefore, a great many of the imaginary cases with which we have been entertained will not and cannot possibly arise. In the second place, we have provided in sub-clause (2) of this clause that no Court shall take cognizance of an offence except upon a report in writing made by a police officer. Now, the object of that provision is that the terms of this clause should not be utilised by private persons who may have a grudge to annoy other private persons. It might be that if we had not this particular safeguard, the Courts might be asked to investigate various frivolous complaints made by one individual against another merely for the purpose of annoyance. We have, I think, by this sub-clause provided against that contingency.

Sir, there has been much criticism of the *Explanation* which was added to the clause. I must make it plain at once that that *Explanation* was not added at the instance of Government and that Government would not be seriously upset if that *Explanation* were deleted from the clause. We were asked by those who felt that it was an advantage to have this plain statement of policy, we were asked by them to include this *Explanation* in the clause and we have no objection to doing so if the House so desires, but I quite agree with the Honourable Members who have criticised the *Explanation*. It does not add very much to the meaning of the clause. (Hear, hear.) The real point which we want to establish is that the advocacy of Swadeshi, of temperance or of any cause by legitimate methods is not in any way affected by this clause, but picketing appears to me not to be a legitimate method. I admit that Honourable Members opposite can talk to me, can persuade me with their eloquence, but why should they persistently follow me about? Why should

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they beset me in my house because I do not agree with them? I call that, Sir, an intolerable interference with my liberty. I oppose the amendment.

**Mr. President:** The question is:

"That clause 7 of the Bill be omitted."

The motion was negatived.

The Assembly then adjourned for Lunch till Twenty Minutes Past Two of the Clock.

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The Assembly re-assembled after Lunch at Twenty Minutes Past Two of the Clock, Mr. President (The Honourable Sir Ibrahim Rahimtoola) in the Chair.

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**Mr. N. N. Anklesaria** (Bombay Northern Division: Non-Muhammadian Rural): Sir, I move:

"That in sub-clause (1) of clause 7 of the Bill, after the word 'Whoever' the words 'wrongfully or without any legal authority' be inserted."

After the insertion of these words the clause will read as follows:

"Whoever *wrongfully or without any legal authority* with intent to cause any person to abstain from doing or to do any act which such person has a right to do or to abstain from doing, obstructs or uses violence to or intimidates" . . . etc., etc.

The object of this amendment is to take away from the purview of the clause certain, what I may call, beneficent kinds of obstruction or annoyance or lawful kinds of obstruction and annoyance. I see the Honourable the Law Member smiling at my saying beneficent forms of obstruction or annoyance and at the first blush it does sound a bit absurd, but when I give instances of what beneficent annoyance and malignant annoyance may be, I think the laugh will be on my side. Supposing my son desires to go to a meeting of non-co-operators and I am strongly against non-co-operation and I obstruct my son from going to that meeting, I come within the purview of this clause, because my son has got a perfect right to go to a meeting of non-co-operators and I obstruct him and intimidate him in order that he may not go to that meeting. From my point of view this obstruction or intimidation is beneficent in the interests of my son. Take, again, the instance which I have given in my Minute of Dissent. I obstruct my son from going to a house of ill fame. Though this is obstruction beneficent in the interest of my son from all points of view, I come within the purview of this clause. Then there are kinds of obstruction, annoyance and intimidation which are lawful. For instance, a police man meets me at the railway station and says "I suspect you have got contraband opium in your luggage and I want to search you". He is obstructing me from going my way. Under this clause the policeman can be hauled up, because he annoys, intimidates or obstructs me from proceeding on my way. In order to take away these beneficent and lawful kinds of obstruction from the purview of this clause, I have proposed this amendment.

Sir, if you read the clause you will find that the only intent mentioned in this clause is intent to cause any person to abstain from doing or to do any act which such person has a right to do or abstain from doing. I shall, therefore, in obstructing my son, in the instance of the son I have given, do the act, or the policeman obstructing me in the instance I have given does that act with the sole intent of making the person obstructed abstain from doing what the person obstructed has a perfect right to do. There is no other intent in the obstructor or the annoyer or the intimidator. Therefore, I say, this is a perfectly reasonable amendment and I hope the Government will be reasonable as regards this amendment. It might be said, you are creating difficulties for the prosecution. But these words—"wrongfully or without any legal authority"—I have taken from the English Law on the subject from which more or less this clause has been bodily taken. In the English Act, these words—"wrongfully or without any legal authority"—do occur, and this English Law has been the Law of England since 1825 to our present day and it was remodelled in 1927. If the English Judges, the English police and English Government do not find any difficulty in administering that law, I do not think that difficulty can possibly stand in the way of our Indian Government extending protection to innocent persons as suggested in my amendment. I am conscious of the unconscionable amount of time we have taken in discussing this Bill and, therefore, to set an example, I shall conclude my speech without any further remarks.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Amendment moved:

"That in sub-clause (1) of clause 7 of the Bill, after the word 'Whoever' the words 'wrongfully or without any legal authority' be inserted."

**The Honourable Sir Brojendra Mitter** (Law Member): Sir, my Honourable friend, Mr. Anklesaria, is super-subtle in moving this amendment. He says that it is no answer to say that it will be creating difficulties for the prosecution. That is not my answer; my answer is that in such a case, as he contemplates, there will be no prosecution. Therefore, no question of difficulty arises, and I will tell you why. His point is that he wants to exclude from the operation of the Act beneficent obstruction as a father obstructing his son with the intent of preventing the son from doing something naughty. If that be so, does not the principle of law embodied in section 95 of the Indian Penal Code come in?

**Mr. N. N. Anklesaria:** It does not apply to special laws, as I said yesterday, according to a Madras High Court decision.

**The Honourable Sir Brojendra Mitter:** I did not say section 95 would apply; I said the principle embodied in that section which is a principle of general application. In the Penal Code there are many sections which embody general principles of criminal law; in order to make the code self-sufficient and self-contained, those principles are embodied in sections. Sir, the principles embodied in those sections are of universal application, and the principle to which I appeal is the principle embodied in section 95:

"Nothing is an offence by reason that it causes, or that it is intended to cause, or that it is known to be likely to cause, any harm, if that harm is so slight that no person of ordinary sense and temper would complain of such harm."

[Sir Brojendra Mitter.]

When a father obstructs his son with the intention of preventing him from doing something mischievous, then the harm caused to the son is of such a character that no person would think of making a serious complaint of it. That being so, the principle of law which is embodied in section 95 comes into play and no prosecution can succeed. Therefore, the apprehension which my Honourable friend has in mind is more imaginary than real. I oppose the amendment.

**Mr. N. N. Anklesaria:** But you punish me under clause 8 for not preventing my son from going to a non-co-operation meeting.

**The Honourable Sir Brojendra Mitter:** That is another thing.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in sub-clause (1) of clause 7 of the Bill, after the word 'Whoever' the words 'wrongfully or without any legal authority' be inserted."

The motion was negatived.

**Mr. S. C. Mitra:** Sir, I beg to move.

"That in sub-clause (1) (a) of clause 7 of the Bill, the words 'or loiters at or near place where such person or member or employed person resides or works or carries on business or happens to be,' be omitted."

In moving this amendment, I do not like to make any speech. I simply refer to a fact to which my attention was drawn by my friend, Mr. Pandian, that the other day a blind man was sentenced to six months' imprisonment. He was probably loitering at or near a place and the old man being blind could not perhaps run very fast or walk fast and so he was punished. The wording is so loose and the word "loiters" may be taken in such a wide sense that it will make the whole clause ridiculous. I think Government may still consider whether they should accept the amendment and omit such objectionable features from the Bill.

**The Honourable Mr. H. G. Haig:** Sir, the story to which we have just listened from my Honourable friend is difficult to understand.

**Mr. S. C. Mitra:** It was reported in the papers.

**The Honourable Mr. H. G. Haig:** My Honourable friend no doubt considers that that gives it authenticity. I say it is difficult to understand, because this blind man was apparently doing nothing except getting along the road as fast as his blindness permitted. But, Sir, the section says that the act of loitering must be done with a definite intention; and what I should like to know from my Honourable friend, Mr. Mitra, is how the Court arrived at the conclusion that the intention of the blind man was to cause a person to abstain from doing some act which he had a right to do. It is of course well known that one of the common practices of picketers, that is, picketers who have not lost their sight, is to loiter in front of a shop or place with that definite intention. And when they have performed that act with that intention, it is reasonable that they should be punished.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in sub-clause (I) (a) of clause 7 of the Bill, the words 'or loiters at or near a place where such person or member or employed person resides or works or carries on business or happens to be,' be omitted."

The motion was negatived.

**Mr. S. C. Mitra:** Sir, I beg to move:

"That in sub-clause (I) (a) of clause 7 of the Bill, after the words 'or loiters' the words 'in spite of protest' be inserted."

The meaning of my amendment is quite clear. If the man is obstructed or hindered in any way, let him protest against it. Without even any protest from the persons who suffer I think the offender should not be proceeded against. So I want to add that at least the man who is likely to suffer should make some protest before the law is put into operation against the offender.

**Mr. B. V. Jadhav:** Sir, I rise to support this amendment. I think Mr. Scerley will bear me out when I say that in the non-co-operation campaign in Bombay when picketing was going very strong, two European shops were picketed in that city; one was Whiteaways and the other was Evans Fraser. Whiteaways protested against the picketing and there was a good deal of rioting and a number of volunteers were arrested and taken to the police *chowki* almost every day. But Evans Fraser did not mind the picketing; they offered them chairs at their doors. The picketers were seated on those chairs and everything went on quietly there; there was no trouble, and the police also showed some sense in not arresting those people. We have seen in the city of Bombay *desha-scvikas* sitting in chairs at shops, which sold foreign goods, and spinning on their *tuklis*. There also there was no protest from the shopkeepers, and, therefore, such cases of picketing ought not to be minded by the police. But there is no provision for that in this drastic Bill, and whether the shopkeeper protests or not, under the wording of the present clause, every picketer is liable to be hauled up by the police before a Court of law and punished. Therefore, I think it will not be right. If there is a protest from the man molested, then there will be some justification for bringing such molesters under the clutches of the law; but, if there is no protest, then there ought to be no prosecution and for that purpose I heartily support the amendment moved by my friend, Mr. Mitra.

**Pandit Satyendra Nath Sen:** Sir, I rise to support the amendment. It seems to be very reasonable. Protest from the person who is alleged to have been obstructed or aggrieved in any way should be regarded as the crucial test for the commission of the offence. If there is no protest from the person molested, then why should there be any prosecution at all? I thank my friend, Mr. Mitra, for his suggesting such a simple expression which will go a great way in improving the clause which has been so badly drafted as I have already said. If such a safeguard is not added, this clause is sure to be manipulated by the police against persons who are not in the good books of the Government. So I support the amendment.



**The Honourable Mr. H. G. Haig:** Sir, we are dealing with a system which really amounts to mass intimidation and it is characteristic of those conditions that individuals are afraid to come forward openly and protest against the pressure that is being brought to bear on them. If that were not the case, if individuals were prepared with more courage to face this kind of compulsion which it is sought to bring to bear on them, there would be far less necessity to enact this clause at all. But it is precisely because individuals are afraid to assert themselves against this species of mass intimidation that it is necessary for the law to give them this protection. My Honourable friend, Mr. Jadhav, made the point extremely clear in his illuminating contribution. He reminded us that when Whiteaway Laidlaws' shop was being picketed in Bombay, the proprietors had the temerity to protest, and what happened? The result was that the Congress redoubled their efforts, that they made a very special point of picketing Whiteaway Laidlaws' shop with all their forces, of collecting large crowds, creating disturbances and in fact in every way increasing their efforts to intimidate. If that is, as we all know it is, an actual statement of the facts, is it reasonable to suggest that people who are picketed in this way will be prepared to come forward and say: "We protest and we ask for your protection"? If these words were inserted, I think the main object of the clause would be defeated.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in sub-clause (1) (a) of clause 7 of the Bill, after the words 'or loiters' the words 'in spite of protest' be inserted."

The motion was negatived.

**Mr. S. C. Mitra:** Sir, I move:

"That in sub-clause (1) (a) of clause 7 of the Bill, the words 'or happens to be' be omitted."

This particular part of the clause reads like this:

"or loiters at or near a place where such person or member or employed person resides or works or carries on business or happens to be. . . ."

I would like by my amendment to omit this portion "or happens to be". Even if it is necessary to provide against loitering in all these places where a person resides or works or carries on business, why this particular phrase "or happens to be" should be added? I think it is absolutely unnecessary. The anxiety that this Government are showing for protecting British trade interests is not at all proportionate to their cares for the interests of the unemployed or the poverty-stricken of this poor unhappy land. Why this phrase should so vaguely be put that any person who may happen to be anywhere there should not be anybody to loiter about? I suggest that at least these words "or happens to be" be omitted.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Amendment moved:

"That in sub-clause (1) (a) of clause 7 of the Bill, the words 'or happens to be' be omitted."

**Mr. B. V. Jadhav:** Sir, I support the amendment.

**The Honourable Mr. H. G. Haig:** Sir, we have heard this morning some criticism of the drafting abilities of the Government of India. This is, I think, a drafting point and perhaps the House will be interested to hear that these words to which my Honourable friend, Mr. Mitra, objects are taken directly from the English Trade Disputes Act which reads:

"watches or besets the house or other place where such other person resides or works or carries on business or happens to be."

I think in order to make the provision comprehensive it is necessary to have those words.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in sub-clause (1) (a) of clause 7 of the Bill, the words 'or happens to be' be omitted."

The motion was negatived.

**Mr. S. O. Mitra:** Sir, I move:

"That in sub-clause (1) (b) of clause 7 of the Bill, after the word 'loiters' the words 'in spite of protest' be inserted."

This is a similar amendment which I proposed about sub-clause (1) (a), and I would like a similar provision in sub-clause (b) also and so I suggest these words might be inserted here.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Amendment moved:

"That in sub-clause (1) (b) of clause 7 of the Bill, after the word 'loiters' the words 'in spite of protest' be inserted."

**Mr. B. V. Jadhav:** Sir, I support this amendment. I may point out that in Bombay when picketing was going on very strong, some liquor shopkeepers encouraged the pickets to stand at their doors in order to claim a refund from the excise authorities or to get the shop at a lower licence fee. In such circumstances, it is the shopkeepers who ought to be hauled up before the Court and not the innocent picketers. For this reason the words "in spite of protest" are very necessary for their safety. I, therefore, support this amendment.

**The Honourable Mr. H. G. Haig:** Sir, I have already dealt at some length with the general arguments which apply to this amendment. With regard to what was said by my Honourable friend, Mr. Jadhav, I understand that these liquor shopkeepers somewhat dishonestly encourage picketers to come and stand in front of their shops so that they can recover from the Government the licence fees they have paid. May I point out to him that if the words "in spite of protests" are inserted, it is perfectly obvious that these liquor shopkeepers will not make a protest and, therefore, the Government will be unable to stop this picketing and will infallibly be put to the loss which my Honourable friend desires to spare them?

**Mr. B. V. Jadhav:** May I point out that in that case the Government will say "well, you have not protested and so you do not deserve any rebate".

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question which I have to put is:

"That in sub-clause (1) (b) of clause 7 of the Bill, after the word 'loiters' the words 'in spite of protest' be inserted."

The motion was negatived.

**Mr. S. O. Mitra:** Sir, I move:

"That in sub-clause (1) (b) of clause 7 of the Bill, the words 'or does any similar act' be omitted."

The sub-clause reads like this:

"loiters or does any similar act at or near the place where a person carries on business."

Sir, I hope the Honourable the Home Member in his reply will give us some instances of what he means by "does any similar act" and also about loitering. The example of English law is quite good, but are we following the English Government in other ways also? For the repressive laws we are to follow England, and for beneficial actions we are to follow the examples of other countries. Sir, I move that these words be omitted.

**Mr. N. R. Gunjal** (Bombay Central Division: Non-Muhammadian Rural): (Speaking in the vernacular, the Honourable Member supported the amendment.)

**The Honourable Mr. H. G. Haig:** Sir, this is one of the cases in which in deference to the views of the Select Committee we made the provisions rather more precise than they were in the original Bill. If my Honourable friend, Mr. Mitra, looks at the original Bill, he will find that it was provided that "anybody who loiters at or near a place or does any other act which may have a like effect", we have introduced into the Bill the words "does any similar act". What we had in mind were acts of the nature, for instance, of lying down, or a practice which we were told was quite commonly adopted of having a number of persons continuously walking past a shop that was being picketed just like a stage crowd which marches across the stage and goes behind and comes and marches in front again. Acts of those kinds might not be covered specifically by the word "loiters" and as it is impossible to foresee all the ingenious plans that may be adopted by the picketers we thought it was desirable, and it is essential, to include a general expression of this nature "does any similar act".

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question which I have to put is:

"That in sub-clause (1) (b) of clause 7 of the Bill, the words 'or does any similar act' be omitted."

The motion was negatived.

**Mr. N. N. Anklesaria:** Sir, I move:

"That to sub-clause (1) of clause 7 of the Bill, the following Proviso be added:

'Provided that nothing in this section shall be deemed to apply to any act which is done without any coercive intent or which is not calculated to cause and does not cause any obstruction, violence, intimidation, alarm or annoyance to any person.'

Sir, if the bare statement of this amendment does not commend itself to the Treasury Benches, I do not think from my experience of the last 50 many days that any more words from me would make any difference. With these words I commend this amendment to the House. (Laughter.)

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That to sub-clause (1) of clause 7 of the Bill, the following Proviso be added:

'Provided that nothing in this section shall be deemed to apply to any act which is done without any coercive intent or which is not calculated to cause and does not cause any obstruction, violence, intimidation, alarm or annoyance to any person'."

The motion was negatived.

**Mr. N. N. Anklesaria:** Sir, I move:

"That the *Explanation* to sub-clause (1) of clause 7 of the Bill be omitted."

I think, Sir, this amendment at least will commend itself to the Government.

**The Honourable Mr. H. G. Haig:** Sir, I explained in my speech this morning that this *Explanation* was not inserted at the instance of Government, and if it is the wish of the House that it should be deleted, we shall raise not the slightest objection. ("Hear, hear" from several parts of the House.)

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question which I have to put is:

"That the *Explanation* to sub-clause (1) of clause 7 of the Bill be omitted."

The motion was negatived.

**Mr. B. V. Jadhav:** Sir, I move:

"That for the *Explanation* to sub-clause (1) of clause 7 of the Bill, the following be substituted:

*Explanation*.—Peaceful persuasion or inducement which does not or is not calculated to involve any obstruction, violence, intimidation, annoyance or alarm to any person does not come within the purview of this section'."

Sir, I do not think there is any necessity of an elaborate argument in support of this motion. I think Government ought to accept it, but from the way in which they have treated the amendment of my friend, Mr. Anklesaria, I have got very meagre hopes. Sir, I hope the House will support me.

**Mr. S. C. Mitra:** Sir, I support this amendment moved by my friend, Mr. Jadhav, and I also congratulate the Honourable the Leader of the House for not raising any objection on a point of order to moving this clause, because it was on this very same clause, exactly word for word, we quoted in this amendment, that we had to come out of the Select Committee when the Honourable the Law Member ruled it out of order. However, when that question has not been raised, I do not like to dilate upon it now. We should like to have a categorical answer from the Honourable the Home Member whether he

[Mr. S. C. Mitra.]

will allow peaceful picketing to be continued as regards indigenous industries, temperance or in any other matter. That will make our position clear. We like to have a definite reply on this point. We agreed that any picketing that involves obstruction, violence, intimidation, alarm or annoyance of any kind can be taken exception to, but if it is merely persuasion not involving any of these elements, I want to know if such peaceful picketing will be permitted by the Government. With these words, I support this amendment.

**Mr. Lalchand Navarai:** Sir, I heartily support this amendment. That picketing is permissible cannot be denied. That peaceful picketing is allowed by law and by practice cannot also be denied. Therefore, to make a clause or to enact a section without drawing a line of demarcation between violent and non-violent picketing would be meaningless and will serve no purpose. It is not at all difficult to draw such a line. From the present clause itself we find that a difference can be deduced between picketing which is harmless and picketing which is harmful. The Honourable the Home Member himself, as I understand him, clearly said that the use of persuasion in picketing is not an offence covered by this clause.

**The Honourable Mr. H. G. Haig:** I did not say in picketing. I said persuasion.

**Mr. Lalchand Navarai:** Persuasion is no offence, then if a man simply stands out and then persuades,—picketing means something like standing out as a sentinel—or if he stands inside and makes persuasion, what difference does it make? Excesses may be punished, and a line can always be drawn in that direction. Picketing has stages. It begins like this. One or two men come and stand at the door of a shopkeeper. The man offers no objection, no protest is made from any quarter. They simply stand outside to influence. That is the first stage of picketing. The second is followed by the men beseeching or making entreaties. The third stage is when they persuade by means of lecturing or putting forward arguments in order to bring the man round. A line can be drawn here, and if any further proceedings are taken, such as catching hold of the man or his property, or intimidating him or insulting him, let these be made punishable. It has been said that if you draw a line of demarcation, it is likely to be crossed over, and the picketers will drift into using force or violence. That is exactly what I say that if excesses of that character happen, they come under the Act, and can be punished, but it cannot be said that simply because a particular law will be infringed, it should not be made at all. Make an enactment and punish the man if he exceeds the legal bounds, but don't punish an innocent man. Yesterday, Mr. Sorley, in an eloquent and able speech, gave certain instances of how this picketing was done in Guzerat. It would have been creditable to him and probably he would have gained the applause of this side of the House also if he had honestly and impartially come forward with instances of how the police acted in instances, where he must have seen that picketing drifted into violence owing to the aggressiveness of the police. I put him a direct question if he has not seen any such instances. I think every District Officer has seen such happenings. I submit, therefore, that there are instances where the police

have been the aggressors and have been responsible for converting peaceful picketing into violent picketing. The picketer simply stands at the door. A policeman passes by. No complaint is made to him, yet he puts on a face and says: "Why do you stand there?" The man replies: "I am standing here by my own right." The policeman loses himself and directs: "Go away", and not unoften assaults. The picketer turns round and also becomes violent in self-defence. Have not such cases happened? We have ourselves seen them. Therefore, to say that peaceful picketing should not be allowed, because it will run over the borders is no argument based upon any sense. I think the Congressmen themselves have not been taught by the Congress or by Mahatma Gandhi to do violent picketing. If the Government now put in a clause that peaceful picketing is no offence, then it will be as ordained by Mahatma Gandhi, and the Congressmen will realise that Government have also drawn a line of demarcation which should not be transgressed. At present they think that whether picketing is done violently or peacefully, it is the same thing, when they are prepared to go to jail; but if Government come round and draw a line of demarcation, the Congressmen will appreciate Government's action and will not go beyond the limits. With these words, I support the motion.

**Mr. T. N. Ramakrishna Reddi** (Madras ceded Districts and Chittoor: Non-Muhammadian Kural): I have given notice of a similar amendment, No. 55 in the new list. I want to know if I will be called upon to move that amendment. If not, I will speak on this.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): It is not exactly the same. The Honourable Member can move it when his turn comes.

**Sardar Sant Singh** (West Punjab: Sikh): I support this amendment, though not very heartily like the previous speakers. (Laughter from the Government Benches.) The Government Benches will not be laughing when they have heard me through. The point is this, Sir. Picketing of all sorts has been made an offence under this clause. The Mover of this amendment wants to exclude peaceful picketing. This weapon should be allowed to remain in the hands of the people for the benefit of the administration. If it were a Government of the country by the people, in that case laws could be enacted to punish a man who acted in a manner prejudicial to the best interests of his country. But we cannot forget that the country is being governed by aliens. Unfortunately there are Indians who deliberately act in a manner highly obnoxious to their countrymen in order to win the favours of the alien bureaucracy for themselves. In such cases, there are two courses open to the people, viz., either to resort to violence against the person or property of such person, or adopt peaceful methods, non-violent methods to bring him round and make him realise the consequences of his evil ways. Violent methods are out of place. The Congress does not recognise them; the country does not want them. We are here to condemn those methods. The only methods then left are peaceful methods. But the Government do not seem to allow the adoption of even peaceful methods. What is to be done then? Sir, Austin, the greatest English Jurist, supplies us with the answer. After discussing the fundamental functions of a Government the great jurist says that when a Government ceases to function for the welfare of its subjects, a right arises in the subjects to rebel against such a Government. All know, Sir, that rebellion is an evil. It brings in its train

[Sardar Sant Singh.]

undescribable hardships. But the people have to make a choice between tolerating bad laws or evils of rebellion. Evils of the rebellion last only for a short time, while the evil inflicted by bad laws are more lasting and leave a permanent scar, and that is why rebellion is justified by Austin in certain circumstances. I would request my Honourable friends, the Law Member and the Home Member, to read Austin a second time. In the light of the second reading, they are requested to reconsider the position whether safety valves should not be kept. It is in their own interest and in our interest as well that violence should be eliminated and condemned. If such innocent acts are excluded, what are the people to do? You are sure to drive them to violence. It cannot be denied, Sir, that people are getting impatient. They have lost all confidence in the present administration. What do the Government want? Do they want to win back the confidence of the people or to further alienate them? Sir, the amendment says:

"Peaceful persuasion or inducement which does not or is not calculated to involve any obstruction, violence, intimidation, annoyance or alarm to any person does not come within the purview of this section."

This amendment is circumscribed by many qualifications. What more safeguards do Government want? If the Government do not take a broad view of the situation at the present time, my submission is that they will not succeed in discouraging the civil disobedience movement, and that they will on the contrary be encouraging it. With these words, I support this amendment.

**Rao Bahadur B. L. Patil** (Bombay Southern Division: Non-Muhamadani Rural): Sir, Government say that Congress workers are aggressive. On the other hand, the Opposition Members have said that it is more often the police who are aggressive; but let me bring to the notice of the Honourable the Home Member that this modest amendment does not in any way affect the Government point of view. It is unaggressive and it meets the point of Government as well. Therefore, in my humble opinion, I request the Home Member to yield to the suggestion of the Opposition. At the same time I should like to raise my little finger of warning. If this amendment is not accepted, the countryside will think that the Government are not sincere in what they say. Government have said that they have no objection if the picketing is peaceful if it does not involve any acts of violence and if the picketers do not resort to force. I think the words coming from Government are hollow and there is no sincerity behind them. Let me also tell them that the masses are not so ignorant as not to understand what is picketing meant for and what is Swadeshi and for whose benefit the Swadeshi movement is being carried on in this country. The masses are competent to understand what is peaceful picketing and what is not peaceful picketing. If Government deprive the social workers of even this right of approaching their fellow citizens with certain economic propaganda, I am sure the verdict of the masses will go against the Government and hereafter the Government may take it from me that they will alienate the sympathies of the masses. I come from the rural districts. I have had talks with several moderately educated villagers. I know for certain that they have begun to understand what Swadeshi means and why picketing is done. Therefore, in my own humble way, I request Government to think well and allow better sense and wisdom to prevail and accept this amendment.

**Diwan Bahadur Harbilas Sarda** (Ajmer-Merwara: General): As I understand it, there is no question of picketing involved in this amendment. The amendment is:

"Peaceful persuasion or inducement which does not or is not calculated to involve any obstruction, violence, intimidation, annoyance or alarm to any person does not come within the purview of this section."

I do not think there can be any reasonable objection to its acceptance. If this clause is to be strictly enforced, I think the first victims will be the Honourable the Home Member and the Honourable the Law Member. They have been all these days trying peacefully to persuade us to vote for this Bill and we have a right to vote against this Bill. If this clause is to be strictly enforced, without regard to persons in high places, then my friends on the opposite benches will be liable to be prosecuted and punished. I do not want this to be done. I hope they will reconsider their decision and accept this amendment.

**The Honourable Sir Brojendra Mitter:** What does this amendment mean? The amendment says:

"Peaceful persuasion or inducement which does not or is not calculated to involve any obstruction, violence, intimidation, annoyance or alarm to any person does not come within the purview of this section."

Who ever suggested that it does come within the purview of this clause? That is what I should like to know. The clause, as it stands, means this that in order to constitute the offence of molestation, two elements are necessary, first of all an intent to coerce and, secondly, some overt act and four categories of overt acts are mentioned in the clause. The first category is obstruction, violence or intimidation. The second category is loitering. The third category is what is known as besetting and the fourth is injury to property. In order that an offence can be established, there must be first of all the intention to coerce and, secondly, some overt act which comes under any of the four categories mentioned. I shall confine my observations to the first category, that is obstruction, violence or intimidation. What the amendment says is this,—that an overt act which does not amount to obstruction, violence or intimidation is not an offence. Of course it is not an offence. The clause does not say it is an offence. Sir, two more expressions are used in this amendment. The words "obstruction, violence, intimidation" are covered by the first category I have mentioned. Then two other words are used,—"annoyance or alarm". Now, alarm certainly is included in the first category, because "alarm" follows "intimidation". Then as regards "annoyance", obstruction, violence or intimidation may cause annoyance, loitering may cause annoyance and besetting may cause annoyance. Therefore, all the five things which the amendment says should not be an element in the offence are already dealt with in the clause itself. That being so, the amendment is, Sir, in my opinion, absolutely meaningless and unnecessary. I oppose the amendment.

**Mr. N. R. Gunjal:** (Speaking in the vernacular, the Honourable Member supported the amendment.)

**Mr. President.** (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That for the *Explanation* to sub-clause (1) of clause 7 of the Bill, the following be substituted:

*Explanation.*—Peaceful persuasion or inducement which does not or is not calculated to involve any obstruction, violence, intimidation, annoyance or alarm to any person does not come within the purview of this section."



The Assembly divided :

AYES—30.

Abdur Rahim, Sir.  
Aggarwal, Mr. Jagan Nath.  
Azhar Ali, Mr. Muhammad.  
Badi-uz-Zaman, Maulvi.  
Chandi Mal Gola, Bhagat.  
Chetty, Mr. R. K. Shanmukham.  
Dutt, Mr. Amar Nath.  
Cour, Sir Hari Singh.  
Gunjal, Mr. N. R.  
Isra, Chaudhri.  
Jadhav, Mr. B. V.  
Jog, Mr. S. G.  
Lalchand Navairai, Mr.  
Liladhar Chaudhury, Seth.  
Maswood Ahmad, Mr. M.  
Miara, Mr. B. N.

Mitra, Mr. S. C.  
Murtuza Saheb Bahadur, Maulvi Sayyid.  
Parma Nand, Bhai.  
Patil, Rao Bahadur B. L.  
Reddi, Mr. T. N. Ramakrishna.  
Sadiq Hasan, Shaikh.  
Sant Singh, Sardar.  
Sarda, Diwan Bahadur Harbilas.  
Sen, Mr. S. C.  
Sen, Pandit Satyendra Nath.  
Sitaramaraju, Mr. B.  
Thampan, Mr. K. P.  
Uppi Saheb Bahadur, Mr.  
Ziauddin Ahmad, Dr.

NOES—56.

Abdul Hye, Khan Bahadur Abul Hasnat Muhammad.  
Acott, Mr. A. S. V.  
Ahmad Nawaz Khan, Major Nawab.  
Allah Baksh Khan Tiwana, Khan Bahadur Malik.  
Amir Hussain, Khan Bahadur Saiyid.  
Anwar-ul-Azim, Mr. Muhammad.  
Bajpai, Mr. G. S.  
Bhore, The Honourable Sir Joseph.  
Bower, Mr. E. H. M.  
Burt, Mr. B. C.  
Dalal, Dr. R. D.  
Dunn, Mr. C. W.  
Dutt, Mr. G. S.  
Fazal Haq Piracha, Shaikh.  
Fox, Mr. H. B.  
Graham, Sir Lancelot.  
Greenfield, Mr. H. C.  
Gwynne, Mr. C. W.  
Haig, The Honourable Mr. H. G.  
Hezlett, Mr. J.  
Hudson, Sir Leslie.  
Ishwarsingji, Nawab Naharsingji.  
Ismail Ali Khan, Kunwar Hajee.  
Ismail Khan, Haji Chaudhury Muhammad.  
James, Mr. F. E.  
Jawahar Singh, Sardar Bahadur Sardar.  
Lal Chand, Honv. Captain Rao Bahadur Chaudhri.  
Mackenzie, Mr. R. T. H.

Macqneen, Mr. P.  
Meek, Dr. D. B.  
Metcalf, Mr. H. A. F.  
Mitter, The Honourable Sir Brojendra.  
Moore, Mr. Arthur.  
Morgan, Mr. G.  
Mukherjee, Rai Bahadur S. C.  
Nayndu, Rao Bahadur B. V. Sri Hari Rao.  
Noyce, The Honourable Sir Frank.  
Rafiuddin Ahmad, Khan Bahadur Maulvi.  
Raghubir Singh, Kunwar.  
Rajah, Rao Bahadur M. C.  
Rau, Mr. P. R.  
Ryan, Mr. T.  
Sarma, Mr. R. S.  
Schuster, The Honourable Sir George.  
Scott, Mr. J. Ramsay.  
Sher Muhammad Khan Gakhar, Captain.  
Singh, Kumar Gupteshwar Prasad.  
Singh, Mr. Pradyumna Prashad.  
Smith, Mr. R.  
Sorley, Mr. H. T.  
Suhrawardy, Sir Abdulla-al-Māmūn.  
Tottenham, Mr. G. R. F.  
Wajihuddin, Khan Bahadur Haji.  
Yakub, Sir Muhammad.  
Yamin Khan, Mr. Muhammad.  
Zulfiqar Ali Khan, Sir.

The motion was negatived.

**Mr. T. N. Ramakrishna Reddi:** Sir, I beg to move the following amendment standing in my name :

"That to sub-clause (1) of clause 7 of the Bill, the following further *Explanation* be added :

*Explanation.*—Peaceful picketing, peaceful persuasion, peaceful argument for the purpose of promoting indigenous Swadeshi products and peaceful picketing of toddy, arrack and ganja shops, without involving obstruction, violence or intimidation to any person does not come within the purview of this section."

Sir, with regard to the amendment that has just been defeated, Government took shelter on the protest that the *Explanation* is covered by the clause itself as all the ingredients in the *Explanation* are contained in the original clause itself and, therefore, the *Explanation* is unnecessary. On the previous amendment, Government argued that peaceful persuasion and inducement might be carried on not only for the purposes of developing Swadeshi enterprise, but also they might be carried on for the purpose of asking persons to join the Congress and many other subvertive activities. That is the reason why Government opposed that amendment. They feared that it would have opened the way for persons to carry on the Congress propaganda. But my amendment confines only to two particular activities. One is the encouragement of Swadeshi products and another is to dissuade people from taking to toddy and ganja. These are the only two activities that this amendment is directed against. Sir, the Government have again and again stated that they have absolutely no objection for carrying on any propaganda for the advocacy of Swadeshi or indigenous goods. It is clear from the minute attached to the Bill itself. They have stated that this clause is not intended to hamper the lawful advocacy of Swadeshi or abstention from intoxicating liquor. Now, Sir, by this amendment I am only making clearer the scope and the operation of the clause. I am only amplifying and clarifying it because the Honourable the Law Member has repeatedly stated that the law must be clear and unambiguous. Then, Sir, let us see what is the attitude of the Government with regard to the improvement of Swadeshi products. I will quote from the Gandhi-Irwin Agreement the attitude of the Government that was then taken up by the Government. They said:

"The position of the Government is as follows. They approve of the encouragement of Indian industries as part of the economic industrial movement designed to improve the material condition of India and they have no desire to discourage methods of propaganda, persuasion or advertisement pursued with this object in view which do not interfere with the freedom of action of individuals and are not prejudicial to the maintenance of law and order."

So, they are prepared to allow the encouragement of Indian industries except under two conditions, namely, that it should not interfere with the freedom of action of individuals or the maintenance of law and order. Now, that was the policy adopted then and the same seems to be the policy of the Government even today as has been stated by the Honourable the Home Member this morning. I was very carefully listening to his speech and he has stated that all ordinary methods of propaganda are open under this clause. As an instance he stated, the distribution of pamphlets in favour of Swadeshi or writing articles in newspapers are absolutely permissible. Thus it is clear that Government have absolutely no objection for carrying on propaganda for the improvement of Swadeshi industry. They have also no objection for the carrying on of a temperance propaganda, or propaganda for abstention from intoxicating liquors. I want to put the professions of Government to the test and see if they are going to accept my amendment. Under this amendment peaceful picketing, peaceful persuasion, peaceful argument for the purpose of promoting indigenous Swadeshi products and peaceful picketing of toddy, arrack and ganja shops without involving obstruction, violence or intimidation to any person do not come within the purview of this clause. But the Honourable the Home Member, while accepting any peaceful persuasion for the furtherance of these objects as being lawful, has only objected to the word "picketing".

[Mr. T. N. Ramakrishna Reddi.],

I again quote from the Gandhi-Irwin Agreement wherein the Government have agreed to the use of that term, and I am sure the Honourable the Home Member himself must have had a hand in drafting this clause. In clause 7 of that Agreement it is said :

"In regard to the methods employed in furtherance of the replacement of non-Indian by Indian goods, or against the consumption of intoxicating liquor and drugs, resort will not be had to methods coming within the category of picketing except within the limits permitted by the ordinary law. Such picketing shall be unaggressive and it shall not involve coercion, intimidation, restraint, hostile demonstration, obstruction to the public, or any offence under the ordinary law."

So, they must have had absolutely no objection for using the word "picketing" under this Agreement. I do not see any reason why they should have any objection for the word "picketing" when it had no objectionable meaning in the Gandhi-Irwin Pact. If a person goes beyond the limits imposed by this clause, he comes under the operation of the law and he can be hauled up. With these words, I move my amendment which is only confined to two objects,—encouragement of Swadeshi, and the temperance movement.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Amendment moved:

"That to sub-clause (1) of clause 7 of the Bill, the following further *Explanation* be added :

*Explanation*.—Peaceful picketing, peaceful persuasion, peaceful argument for the purpose of promoting indigenous Swadeshi products and peaceful picketing of toddy, arrack and ganja shops, without involving obstruction, violence or intimidation to any person does not come within the purview of this section."

**Mr. N. R. Gunjal**: (Speaking in the vernacular, the Honourable Member supported the amendment.)

**The Honourable Mr. H. G. Haig**: Sir, as far as I understand this amendment, in effect it differs from the amendment which has just been rejected by the House only in so far as it authorises peaceful picketing. The object of this clause is to stop picketing. Picketing, however peaceful it may appear on the surface, according to us has a very definite element of compulsion in it. It would be stultifying our object if we were to say, after prohibiting these various acts which amount to picketing, we were then to say that they are authorised. The amendment further proposes that this special privilege in favour of peaceful picketing should only be applied to certain movements. I have not been able to understand why two particular movements, the Swadeshi movement and the temperance movement should be given this preference . . .

**Mr. T. N. Ramakrishna Reddi**: Because the Government agreed to these two activities.

**The Honourable Mr. H. G. Haig**: Surely the Honourable Member does not suggest that we regard all other popular movements as undesirable. There are many other movements. There is the movement in which my Honourable friend, Diwan Bahadur Harbilas Sarda, is so interested. Why is the privilege of peaceful picketing to be denied to them? Sir, the form of this amendment is such that it could not possibly, I maintain, find a place in our legislation. And I would further ask Honourable Members opposite, why cannot Swadeshi be pursued except by the methods

of picketing? Is it a movement so unreasonable or so repugnant to the feelings of the people that it cannot make progress without exercising compulsion on them? Sir, I oppose the amendment.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That to sub-clause (1) of clause 7 of the Bill, the following further *Explanation* be added:

*'Explanation.*—Peaceful picketing, peaceful persuasion, peaceful argument for the purpose of promoting indigenous Swadeshi products and peaceful picketing of toddy, arrack and ganja shops, without involving obstruction, violence or intimidation to any person does not come within the purview of this section'."

The motion was negatived.

**Mr. Lalchand Navalrai:** Sir, I move:

"That to sub-clause (2) of clause 7 of the Bill, the following further *Explanation* be added:

*'Explanation.*—Peaceful picketing does not come within the purview of this section'."

I will explain why I am moving this amendment. The former amendments that have been put before this House contained more or less a definition of what peaceful picketing was. They describe certain matters which they consider peaceful. But I was very sorry to hear from the Honourable the Home Member that the intention of Government was to stop all picketing. I think it is not right that Government should go so far. Then the Home Member qualified that statement by saying that picketing was peaceful on the surface of it. Therefore, I am putting only the words "peaceful picketing" and I am leaving it to the magistrates to decide in each case what peaceful picketing is and it will be for them to find out whether it is peaceful picketing on the surface alone or it is substantially peaceful picketing. If it is truly peaceful picketing, then it should not come under this clause, but if it is merely on the surface and considered violent or harmful, then the man should be punished. That is the difference I am making and I am leaving the definition of the words "peaceful picketing" in the hands of the judiciary. I submit that this amendment of mine is very reasonable. If an amendment like this is also not accepted, then I think the reply will be that Government are getting vindictive.

**Mr. N. R. Gunjal:** (Speaking in the vernacular, the Honourable Member supported the amendment.)

**The Honourable Mr. H. G. Haig:** Sir, I have already dealt with the point raised by my Honourable friend, Mr. Lalchand Navalrai, in my reply to the previous amendment and I have nothing to add to it.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in sub-clause (1) of clause 7 of the Bill, the following further *Explanation* be added:

*'Explanation.*—Peaceful picketing does not come within the purview of this section'."

The motion was negatived.

**Mr. Lalchand Navalrai:** Sir, I beg to move:

"That in sub-clause (2) of clause 7 of the Bill, for the words 'officer in charge of a police station' the words 'an Inspector of Police' be substituted."

[Mr. Lalchand Navalrai.]

Sir, I want to try and see how far Government will go even on very reasonable amendments. What I mean by this amendment is to have a simple safeguard that when there is such an important question as peaceful picketing or no picketing, it should not lie in the hands of a mere constable to decide whether to report against the offender or not. It is very necessary that in these circumstances some responsible police officer should handle the case and get it tried by a Magistrate. I do not think I am asking anything which is unreasonable. I said that under this clause cases would be handled by a constable only. I am fortified in that by the very definition of the words "officer in charge of a police station" in the Criminal Procedure Code, section 4, which says:

"Officer in charge of a police station includes, when the officer in charge of a police station is absent from the station house or unable from illness or other cause to perform his duties, the police officer present at the station house who is next in rank to such officer and is above the rank of a constable."

But, further on, it says that when the Local Government so directs, any other police officer or person may be placed in charge, and that would include a constable also. Therefore, a constable can take cognizance of the case or a head-constable can, so a sub-inspector, but, I want an Inspector to do so and, by virtue of section 551, Cr. P. C., he can act as an officer in charge of a police station. This will be a measure of precaution? Of course people have lost their faith even in Inspectors of Police. We know how police officers are treating these cases of boycott and peaceful picketing. At any rate, it will inspire some confidence to feel that a higher officer has investigated the case, and I submit that this amendment should be considered reasonable.

**Mr. N. R. Gunjal:** (Speaking in the vernacular, the Honourable Member supported the amendment.)

**The Honourable Mr. H. G. Haig:** Sir, the officer in charge of a police station is the officer who normally investigates a case and sends it up for trial. It is for that purpose that we have provided that these cases should not be instituted without that procedure having been followed. If it were made obligatory that a case of this nature should go before an Inspector of Police, that would mean considerable delay in procedure. These cases, when the picketing movement is in operation, are very numerous and it is particularly essential that they should be dealt with promptly. The amendment moved by my Honourable friend would defeat this very necessary intention of the clause,

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in sub-clause (2) of clause 7 of the Bill, for the words 'officer in charge of a police station' the words 'an Inspector of Police' be substituted."

The motion was negatived.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That clause 7 stand part of the Bill."

The motion was adopted.

Clause 7 was added to the Bill.

The Assembly then adjourned till Eleven of the Clock on Thursday, the 1st December, 1932.

## LEGISLATIVE ASSEMBLY.

Thursday, 1st December, 1932.

The Assembly met in the Assembly Chamber of the Council House at Eleven of the Clock, Mr. President (The Honourable Sir Ibrahim Rahimtoola) in the Chair.

### SHORT NOTICE QUESTION AND ANSWER.

#### HUNGER-STRIKE OF THE DETENUS IN THE DEOLI CAMP JAIL.

**Mr. S. C. Mitra:** (a) Has the attention of Government been drawn to the statement published in the *Hindustan Times*, dated the 29th November, 1932, under the caption "Deoli Detention Camp—Is a Hunger-Strike on?" If so, will Government be pleased to state whether the statement of the hunger-strike of the detenus in Deoli Camp is true? If so, how many of them are on hunger-strike and since when have they gone on hunger-strike?

(b) Is it a fact that on 2nd November, 1932, there was a serious trouble in the Camp and as a result the Gurkha guards have inflicted heavy casualties amongst the detenus? If so, will Government be pleased to state separately the number of detenus killed and injured as a result of the said trouble on the 2nd November, 1932?

(c) Is it a fact that 30 detenus received injuries of a more or less serious nature?

(d) Is it a fact that the condition of Phanindra and another detenu is critical? If so, will Government be pleased to state what medical aid was rendered to them?

(e) Is it a fact that Mr. Satyendranath Sen has been transferred to Ajmer Jail from the Deoli Camp? If so, what are the reasons of such transfer?

(f) Will Government be pleased to state the causes that led to the trouble, and do Government propose to appoint a Committee of Enquiry to inquire into the causes of the trouble? If not, why not?

(g) Will Government be pleased to state whether they have any objection to the Non-Official Members of the Legislative Assembly visiting the Camp? If so, what are the reasons?

**The Honourable Mr. H. G. Haig:** The facts are as follows:

During October, some of the detenus at the Deoli Camp disregarded the rules about roll-call. On the 26th October, two detenus were found absent from roll-call, and subsequently refused to obey the orders of the Superintendent summoning them to his office. The Superintendent awarded punishment to the senior detenu for absence from roll-call and deliberate and obstinate disobedience of his orders. The punishment awarded was reduction of diet allowance and personal allowance for 14

[Mr. H. G. Haig.]

days and the cancellation of the privilege of writing and receiving letters for a period of two months. On the morning of the 29th October, the Superintendent received a general communication from a number of detenus threatening that they would cease to attend roll-call unless the punishment was withdrawn. On the 30th, only 9 or 10 detenus attended the roll-call, and similar disobedience of orders occurred on the 31st October, and the 1st November. Later on that day one detenu, who had not only refused to attend the roll-call but for a long time could not be found at all, was summoned to the Superintendent's office, but refused to obey, he was again summoned to attend on the morning of the 2nd, but again refused. The detenus' Manager had been asked to persuade the detenu to proceed to the office, but he replied that he could give no help in the matter. Guards were, therefore, sent to bring the detenu to the office, whereupon some 50 detenus crowded round the entrance of the room blocking the way and adopting a threatening attitude towards the Superintendent. The guards were ordered to make a passage for the removal of the detenu. They forced back the crowd and a scuffle ensued. The detenus abused the jail officers, seized the Deputy Superintendent round the waist and tore the uniform of the Superintendent and others. Two detenus received small cuts on the head, and a number received contusions. There is no truth in the suggestion that 30 detenus received injuries of a serious nature. On the 5th November, two of the detenus commenced a hunger-strike, and four others followed their example on various dates between the 10th and 15th. On the 25th November, all six abandoned the hunger-strike, and their condition is understood now to be quite satisfactory. The hunger-strikers were looked after by the Medical Officer of the Camp, and the Additional Civil Surgeon of Ajmer was also specially sent out to Deoli and remained there superintending their treatment.

Mr. Satyendranath Sen has been transferred from the Deoli Jail, as he was the prime instigator of these organized attempts to defy authority. The Government are satisfied that the facts are as stated above, and they do not propose to appoint a committee of enquiry.

**Mr. S. O. Mitra:** May I take it that the condition of no detenu is very critical or serious at present there?

**The Honourable Mr. H. G. Haig:** Yes; the Honourable Member may certainly take that.

**Mr. S. O. Mitra:** Will the Honourable Member please explain why telegrams inquiring about the health of detenus of the Deoli Camp Jail are not being replied to by the Commandant? Because of the rumour in the Press, there is anxiety and there were some telegrams sent inquiring about the health of the detenus, but no reply has yet been received. Is it the policy of the Government that no reply should be given of telegrams?

**The Honourable Mr. H. G. Haig:** I have not heard about these particular inquiries. Did they relate to the detenus who were at the time on hunger-strike?

**Mr. S. O. Mitra:** The relations of detenus do not know who are on hunger-strike: they complain they wired to the Commandant, but these wires are not answered and, as a matter of fact, correspondence has been

stopped with these detenus for the last fortnight. Will the Honourable Member make an inquiry about that in order that relations of detenus may be appeased and they may have some information about the detenus?

**The Honourable Mr. H. G. Haig:** I will certainly find out whether inquiries are being answered or not.

**Mr. Lalchand Navalrai:** May I know from the Honourable Member whether in the scuffle on the other side, that is, the Government side also, anybody received a beating or any injury or bruises?

**The Honourable Mr. H. G. Haig:** I have stated that the uniform of two or three persons was torn including that of the Superintendent, and the Deputy Superintendent was seized round the waist.

**Mr. Lalchand Navalrai:** That is to say, there was no injury: I was asking about injury in the sense of bruises or contusions.

**The Honourable Mr. H. G. Haig:** I do not think so. I am told that one of the detenus came along armed with a large stone, but that they succeeded in preventing him throwing it.

**Mr. Lalchand Navalrai:** May I know if this Deoli Jail is intended to be a temporary one or a permanent one, because there is a rumour or rather a report in the papers that it is going to be made permanent?

**The Honourable Mr. H. G. Haig:** I hope the terrorist problem is not going to be permanent, but there is certainly no intention of any early discontinuance of the Jail at Deoli.

**Mr. C. S. Ranga Iyer:** Will Government be pleased to state how the roll-call is conducted?

**The Honourable Mr. H. G. Haig:** I understand that the roll-call is conducted by the detenus being present beside their beds in the evening.

**Mr. C. S. Ranga Iyer:** Will Government be pleased to state if any humiliation is involved in the roll-call?

**The Honourable Mr. H. G. Haig:** Absolutely none.

**Mr. C. S. Ranga Iyer:** Will Government then explain why this scuffle took place between the detenus and the guard?

**The Honourable Mr. H. G. Haig:** I have already explained that it was part of an organised movement to defy authority.

**Mr. C. S. Ranga Iyer:** Do all the detenus subscribe to this organised movement or only a small number of them?

**The Honourable Mr. H. G. Haig:** The greater proportion of them, I think.

**Mr. C. S. Ranga Iyer:** How many detenus are there and how many subscribe to this?



**The Honourable Mr. H. G. Haig:** There are something under 100 detenus in the camp and this crowd consisted of about 50.

**Mr. O. S. Ranga Iyer:** The Honourable Member was saying that one detenu could not be found. Will Government be pleased to state if he had run away from the camp?

**The Honourable Mr. H. G. Haig:** No; he did not; but he was apparently concealing himself. The Honourable Member will surely recognise that it is most important that at least once in every 24 hours the authorities should assure themselves that all the detenus are present.

**Mr. O. S. Ranga Iyer:** Are there facilities for concealment in the Detenu Camp?

**The Honourable Mr. H. G. Haig:** There obviously are facilities for concealment in any camp.

**Mr. S. C. Mitra:** May I take it that the rumour that Phanindra and Jnan Majumdar were severely assaulted on the head is not correct?

**The Honourable Mr. H. G. Haig:** I have not the names of the detenus, but as I have already informed the House, two detenus received small cuts on their head.

**Mr. O. S. Ranga Iyer:** Is there any truth in the rumour that the Government may at some stage deport these detenus to the Andaman Islands?

**The Honourable Mr. H. G. Haig:** No, Sir; I have already informed the House that no such proposal is under consideration.

**Mr. R. S. Sarma:** Would it not be a good policy for the Government to issue communiqués explaining the exact position so that such rumours may be discounted?

**The Honourable Mr. H. G. Haig:** I thought, Sir, it would be more agreeable to the House if information were given in the form of an answer to a question in the House rather than that it should be conveyed in the form of a communiqué. The result, I think, is precisely the same.

**Mr. O. S. Ranga Iyer:** What is the difficulty of Government to allow some representative men from this House to visit the Detenu Camp?

**The Honourable Mr. H. G. Haig:** No, Sir; I see no reason to agree to that proposal.

**Mr. S. C. Sen:** What is the nature of the inquiry and by whom is it made which satisfies the Government to say that no further inquiry is necessary?

**The Honourable Mr. H. G. Haig:** There is no difficulty in ascertaining the facts. The Superintendent reported and the matter has also been inquired into by the Commissioner.

**Mr. O. S. Ranga Iyer:** The Honourable Member stated "I see no reason why representative men from this House should be allowed to visit the camp". Will he please say why he sees no reason?

**The Honourable Mr. H. G. Haig:** Will the Honourable Member please explain why representatives from this House should go to the Camp?

**Mr. O. S. Ranga Iyer:** Obviously because there seems to be a good deal of misapprehension and anxiety, and, if responsible representative Members go there, they will be able to make a statement.

**The Honourable Mr. H. G. Haig:** The Honourable Member is well aware that anything in the nature of a Committee of Inquiry would have an unfortunate effect on the discipline in the Deoli Jail which, as the story I have just given to the House shows, has been already somewhat unsatisfactory.

**Mr. H. P. Mody:** Is there any special reason why a Non-Official Visitors' Committee should not be set up in connection with the detention of State Prisoners on the lines of the Non-Official Visitors' Committees for ordinary prisoners?

**The Honourable Mr. H. G. Haig:** I have already informed the House last Session that a Visiting Committee has been appointed.

**Mr. H. P. Mody:** Who comprises this Visiting Committee with regard to this particular detention camp?

**The Honourable Mr. H. G. Haig:** I would ask the Honourable Member to refer to the answer which I gave during the Simla Session.

**Mr. H. P. Mody:** Perhaps the Honourable Member will be good enough to repeat it for us, as we have short memories.

**The Honourable Mr. H. G. Haig:** If the Honourable Member will put down a question, I will look up the answer, but I should have thought it might have been more convenient if he looked up the answer for himself.

**Mr. O. S. Ranga Iyer:** Is Diwan Bahadur Harbilas Sarda a member of that Visiting Committee?

**The Honourable Mr. H. G. Haig:** No, Sir.

**Mr. O. S. Ranga Iyer:** Will Government be pleased to consider the desirability, as Ajmer-Merwara comes under the control of the Central Government, of including the representative of Ajmer-Merwara from this House in that Committee so that this House may know at any rate in the lobby, if not on the floor of the House, as to what is happening in the Camp?

**The Honourable Mr. H. G. Haig:** The Visiting Committee, Sir, is appointed by the Chief Commissioner, but the Honourable Member's suggestion will be conveyed to him.

**Mr. S. O. Mitra:** Is it a fact that the Visiting Committee merely consists of a Government contractor?

**The Honourable Mr. H. G. Haig:** I have no information, Sir, as to the particular qualifications of the members of the Visiting Committee. I have only been informed of their names.

**Mr. S. O. Mitra:** Will he kindly make inquiries and see that independent men like Diwan Bahadur Harbilas Sarda are included in that Committee and that the Committee does not consist of one man as at present?

**The Honourable Mr. H. G. Haig:** I have already stated that a copy of these questions and answers will be forwarded to the Chief Commissioner on whom lies the responsibility of forming the Committee.

**Mr. H. P. Mody:** Can a Committee be composed of one man?

**The Honourable Mr. H. G. Haig:** There are also official members.

**Sardar Sant Singh:** In view of the fact that the non-official members who are appointed by the Local Government do not enjoy the confidence of the people, is it not in the interest of the administration that the policy of appointing non-official members from the nominees of District Magistrates should be changed and elected Members should be appointed?

**The Honourable Mr. H. G. Haig:** That, Sir, I do not think arises out of this question. I understand the Honourable Member is putting to me a general proposition.

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#### STATEMENTS LAID ON THE TABLE.

**The Honourable Mr. H. G. Haig** (Home Member): Sir, I lay on the table the information promised in reply to starred question No. 1385 asked by Mr. M. Maswood Ahmad on the 22nd November, 1932.

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#### BURGLARY IN THE DILKUSHA AND ARAMBAGH SQUARES IN NEW DELHI.

\*1385. (a) Yes;

(i) the neighbourhood can scarcely be described as frequented by thieves, though there have been burglaries within the last two months;

(ii) Patrols visit these localities but with the present inadequate staff regular patrolling cannot be provided.

(b) The offences mentioned have been thoroughly investigated and all possible action has been taken to check their recurrence and to arrest wrong-doers.

(c) and (d). Petitions were received by the Superintendent of Police and I understand that suitable action to safeguard the neighbourhood has been taken. Government do not consider it necessary to issue any further instructions in the matter.

**Mr. H. A. F. Metcalfe** (Foreign Secretary): Sir, I lay on the table the information promised in reply to starred questions Nos. 1119 to 1126 asked by Mr. S. C. Mitra on the 14th November, 1932.

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REMISSION OF ONE MONTH'S SENTENCE TO A CONVICT NIGHT WATCHMAN FOR BEATING A POLITICAL PRISONER IN THE CENTRAL JAIL AT AJMER.

\*1119. It is not a fact.

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STANDING HANDCUFFS GIVEN TO ONE JUGRAJ IN THE AJMER CENTRAL JAIL.

\*1120. The answer to both parts of the question is in the negative.

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BEATING OF A POLITICAL PRISONER BY THE JAILOR OF THE AJMER CENTRAL JAIL.

\*1121. It is not a fact.

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DENIAL OF FACILITIES TO POLITICAL PRISONERS IN THE AJMER CENTRAL JAIL.

\*1122. (a) Blankets, mats and books are invariably supplied according to the Jail rules. Prisoners are not allowed to borrow books from other prisoners. No books, which could suitably be allowed, have been confiscated.

(b) Ladu Ram Joshi was punished for using insulting language.

(c) There has been no such confiscation of books or blankets. Government have no information of any such incident.

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SLAPPING OF A LAME POLITICAL PRISONER IN THE AJMER CENTRAL JAIL.

\*1123. No.

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LOSS OF WEIGHT OF CERTAIN POLITICAL PRISONERS IN THE AJMER CENTRAL JAIL.

\*1124. (a) No. It is not a fact.

(b) Hospital diet is given according to the scales prescribed in the Ajmer-Merwara Jail Manual. There is no necessity to alter these scales. The quantity and quality of food supplied are in no way insufficient. The diet is varied in individual cases to suit medical requirements.

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ILL-TREATMENT OF CERTAIN POLITICAL PRISONERS IN THE AJMER CENTRAL JAIL.

\*1125. (a), (b) and (c). The answers to all these questions are in the negative.

**SUPPLY OF 'ONLY ONE MEAL TO "C" CLASS PRISONERS IN THE AJMER CENTRAL JAIL.**

\*1126. A certain number of prisoners were, at their own request, allowed to take food only once a day.

**Mr. P. R. Rau** (Financial Commissioner, Railways): Sir, I lay on the table:

- (i) the information promised in reply to starred question No. 671 asked by Shaikh Fazal Haq Piracha on the 23rd September, 1932; and
- (ii) the information promised in reply to starred question No. 1136 asked by Khan Bahadur Haji Wajihuddin on the 14th November, 1932.

**RETRENCHMENT OF MUSLIMS IN THE RAILWAY CLEARING ACCOUNTS OFFICE, DELHI.**

\*671. (a) The total number of men retrenched between 3rd February, 1931, when the discharge started and 1st November, 1932, was 76 out of which 15 were Muslims.

(b) The total strength of the staff of Muslims before and after reductions, including discharges and other casualties such as normal retirements, transfers, etc., was as follows:

	On 3rd February, 1931.		On 1st November, 1932.	
	Total strength.	Muslims.	Total strength.	Muslims.
Permanent and temporary employees appointed before 1st January, 1929 .. .. .	1,246	143	1,152	135
Temporary employees appointed after 1st January, 1929, who were on a purely temporary footing without claim to confirmation ..	30	16	14	7
Total ..	1,276	159	1,166	142

**PURCHASE OF BAGS FOR HAYMAN-MOHINDRA PUNCHING MACHINES.**

\*1136. (a) A bag has been supplied to Travelling Ticket Examiners for purposes other than carrying Hayman-Mohindra Punches, viz., for keeping excess Fare and Journal Books, Distance Fare Tables, Pocket Guide, Time-table and Carriage Keys, etc.

(b) The cost of one satchel is Rs. 2-8-0. The total cost of satchels supplied was Rs. 2,032-8-0.

(c) In view of reply to item (a) this question does not arise.

(d) No such bags were supplied before on the East Indian Railway. Information regarding other State Railways is not available.

## THE CRIMINAL LAW AMENDMENT BILL—*contd.*

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Order, order. The question is:

"That clause 8 do stand part of the Bill."

**Mr. S. C. Mitra** (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): I move, Sir:

"That clause 8 of the Bill be omitted."

This clause deals with the power to order a parent or guardian to pay fines imposed on young persons under the age of 16 years. I admit that this principle of guardians being made liable to pay fines for their minor wards is not a novel one. It has been in existence in other countries, and even in our country in the four major provinces a similar law exists. My amendment is made with a view to seeing that such a provision should not exist in an emergency legislation like this, because I find that in Bombay, Bengal, Madras and C. P., which are all big provinces, there is the Children's Act, and, in sections 25 and 26 of that Act, there is a provision analogous to this, and if any fine is imposed, it can be realised under that section. So if really there is a necessity, let the provinces undertake the legislation where the "superstructure" is being built, and it need not be incorporated in the "foundation Bill" itself in the Assembly. I agree that the clause has been much improved in the Select Committee, and the parent will not be liable to imprisonment under the amended clause, but I oppose it on the ground that it is useless.

**Pandit Ram Krishna Jha** (Darbhanga *cum* Siran: Non-Muhammadan): Sir, I beg to support this amendment, not in the hope that it will be carried, for I have seen the fate of 101 amendments already proposed, nor in the hope that any reasons advanced from this side will convince the Honourable the Home Member to change his views, because we know that he has already made up his mind to pass this Bill, without any alterations. But what I want to point out is, is there really any difference of opinion between Members on this side of the House and the Government as to the necessity of having some law to control the boys? There is none. In fact, no Member on this side of the House disagrees with the Government that the civil disobedience movement should not be allowed to continue in its present form. There is also absolutely no difference of opinion between the two sides of the House that the boys should not be allowed to develop a mentality which amounts to disobedience to law and order, because that will embarrass not only the Government but the family, society and everybody.

The question is this. Who is responsible for this mentality which we now find in the young boys? My submission is that it is not the parents. The parents have to send their boys to the schools. There you impart such godless education that the boys develop that kind of mentality. You pay no heed to the popular demand that the education should be on religious lines. If you impart religious education, I have no doubt that the boys will never develop that mentality. My submission

[Pandit Ram Krishna Jha.]

is, when you are responsible for this defective education, why should the parents be blamed? If there is anybody who is responsible for all this, I should say, it is the educational policy of the Government of India, and if anybody has to pay the fine it should be the Education Minister, Sir Fazl-i-Husain, and not the parents. What can the poor parents do? I am sure, nobody will like that his son or nephew should go and take part in the civil disobedience movement and thereby bring on them the penalty of fine or imprisonment. Nobody likes that. Is there any remedy for this? The parent has to send his boy to the ordinary school in the village in which he is living. The boy does not get any religious education. The boy then argues with the elderly people and says, this is my conviction, this is what my conscience says. Things like this go on. How is the parent responsible for that? It is for you to find some means of giving such sound education that this mentality may not be formed. As I said, no parent would like his son should go and take part in the civil disobedience movement. In fact, parents of that mentality will not be here at all, will not care to come here at all. They may be right or wrong, I am not criticising them, but what I mean to say is that there should be absolutely no difference of opinion between the Government and this side of the House as to the need of it, but the remedy suggested, is, I submit, not right. I would ask the Honourable the Home Member to consider this aspect of the question and then see how far the parent or guardian should be made liable for all this. There is another very objectionable feature in this clause. The definition of a guardian is very wide—it says, anybody having the care of the boy. Out of pure generosity, suppose, I am maintaining some poor boys who have no means of living. They reside with me. I am here, they are there. They are all impressionable boys of the age of 11, 12 or 14. They go to the school and they are led away by the Congress people, and then they are hauled up. A fine is imposed. Am I to pay the fine? Is that the reward for my generosity? I submit, the definition is too wide, and the phrase “care of” should be deleted. In any case, I submit, if you are not prepared to do away with the clause, it should be so modified that there may not be any undue hardship to any parent or guardian or anybody else. As I have already said I never disagree with you that this mentality should be stopped.

**Mr. B. V. Jadhav** (Bombay Central Division: Non-Muhammadan Rural): I rise to support the amendment. The Mover of the amendment, Mr. Mitra, has paid a compliment to the Government for diminishing the rigours of the clause as it was originally in the Bill. The punishment of imprisonment in default of payment of fine which was in the original Bill has been taken away, but as has been pointed out by the previous speaker, the definition of the word “guardian” is too wide and is likely to lead to great hardship. Take this case. The superintendent of a hostel is in control of the boys in the hostel. The boys go out for a walk and if they mix themselves up in some Congress activity or other undesirable activity, is that superintendent to pay the fine? As a matter of fact, at the time the boys go out, they are not under his control. They go out for a walk or play or to do some such innocent thing, and one cannot expect that the superintendent of the hostel should always be in charge of the students and should be held responsible for each and every mischief that the boys commit. Of course, sub-clause (2) gives an opportunity to the parent or guardian for being heard, but it does not mean that his

responsibility on that account will cease, because he is the guardian liable for payment of the fine, and that is very objectionable. For these reasons, I think that the whole clause should be omitted.

**Mr. K. P. Thampan:** (West Coast and Nilgiris: Non-Muhammadan Rural): I also wish to support this amendment. In the first place, I take strong objection to this kind of vicarious punishment. It is an unusual thing. In this Bill clauses 4 and 7, which are the most important, deal with boycott of public servants and picketing. This clause deals with such offences committed by minors below the age of 16. I cannot for a moment believe that these youngsters have got sufficient powers of persuasions to prevent people joining the Government service or carry on an effective campaign of boycott. But even if they are in a position to persuade them, and the guilt is proved, the best punishment would be to cane them. I do not mind if the remedy is altered and a corporal punishment is given instead. But here it is contemplated that a fine should be levied, and that it should be recovered from the guardian. It is a heavy responsibility imposed on the guardian and I take strong objection to that kind of punishment. Now a days boys live in college hostels and other institutions in distant towns while the guardians themselves live in their villages. As my Honourable friend, Mr. Jha, said, it is absolutely impossible under modern conditions of life for the guardian to exercise that kind of control over them as would keep them safe. It often happens that on account of associations and surroundings these boys take part in political agitations, and the guardians living miles away in the villages cannot be held responsible for the activities of these boys, however much they may wish that the boys should not participate in these things. Of course, there is this provision:

"No such order shall be made if the parent or guardian satisfies the Court that he has not conduced to the commission of the offence by neglecting to control the offender . . ."

But, I submit, it is halting and vague. After the boys leave their homes, the parents cease to have any connection or contact with them. They are only called upon to make monthly remittances to the boys until their return to their homes after the annual examination at the end of the year. Till then they are not in actual touch with the boys and cannot be held responsible for their activities. That is the real situation. I, therefore, support this amendment.

**Sardar Sant Singh** (West Punjab: Sikh): The provisions of this clause, it may safely be conceded, are consistent with its drastic sister provisions that have already been discussed on the floor of this House. Though the Opposition has tried to explain that the situation in the country, if attempted to be controlled by this Ordinance, is likely to become more serious, yet the Treasury Benches insist upon enacting this measure in its original form. The present clause provides the penalty for the boy's parent or guardian for the offences of his children. It is against all the fundamental principles of criminal jurisprudence to visit the sins of sons on the heads of their guardians. The provision does not stop there alone, but throws the onus upon the guardian to prove his innocence. It first dubs a citizen as criminal when he has no criminal intention and has committed no act which breaks any law, then throws the onus on him to prove his non-liability. In actual practice, Sir, such a provision is likely



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to lead to curious results. Take, for instance, the case of a father who sends his son for education to a central place. The son is out of the control of the father for the time being and is living under the control of the Superintendent of the hostel or the Principal of the college where he is studying. He commits an offence of the kind mentioned in the Bill when residing there. According to the definition of guardian in this clause, namely, "guardian includes any person who in the opinion of the Court has for the time being the charge of or control over the offender" the person made liable is either the Superintendent of the hostel or the Principal of the College, because either of them or both have the control of the offender. Is he to pay the fine? (*Sir Muhammad Yakub*: "Certainly.") Very good. That is the opinion of an able lawyer. The clause is surely open to this interpretation. If the superintendent is liable to pay the fine, why not the institution? (*An Honourable Member*: "Director of Public Instruction.") The Director of Public Instruction probably is too remote a person. That is an aspect of the subject that cannot be ignored. Difficulty of a different sort may arise for the guardian when he attempts to control the activities of his ward. Suppose, for instance, I discover that my son has been influenced by an unlawful association and he decides to go to picket a liquor shop. I at once take hold of the son and shut him up in a room and would not let him out, for I do not want to run the risk of being made liable to pay the fine if he commits an offence. An associate of my son comes to know of this confinement and lodges a complaint with a Magistrate and asks for a search warrant under section 106 of the Criminal Procedure Code. The Court is bound to issue such a warrant. In execution of this warrant, the police secures the release of my son. Thus I lose control over my son. He goes and commits an offence. I find him in the lock up and ultimately he is convicted and fined. The fine falls on me though I committed no fault. This is not all. The son may go and prosecute me for having illegally confined him. In such a case, I may be doubly punished once for not exercising the control over my ward and, second time, for attempting to exercise it. If the Honourable the Home Member still insists on the retention of this clause, I will venture to make a suggestion to add an *Exception* to the Indian Penal Code to the effect that "nothing will be an offence, when a parent or a guardian controls his son for the purpose of preventing him from joining an unlawful association". Otherwise the situation will become very unpleasant and embarrassing. In the alternative the only way of escape would be to advise young parents to practise birth control.

**Mr. Lalchand Navalrai** (Sind: Non-Muhammadian Rural): A similar amendment stands in my name, and I support this. Before this Bill went to the Select Committee, the House knows that this particular clause was protested against and it was considered to be an unnatural one and likely to be worked in an unnatural way. Hopes were entertained that in the Select Committee this clause would be amended in a manner as to suit the purpose for which this measure was to be enacted. Some of the Members who spoke were keen on seeing that this clause did not find a place in the Bill. I do not know what attempts were made there, but I submit the amendment made there has not mitigated the rigour with which this clause will be worked. We find that the parents are clearly going to be punished for the sins of their children. The clause is so wide in its

scope, that it will make liable any parent. This will be certainly putting a premium upon the harsh enforcement of this clause against innocent and co-operating friends. Much reliance is sought to be placed on the fact that there are similar provisions in two or three Provincial Acts, such as the Bombay Children Act of 1924 and the Madras and Bengal Children Acts. Now, it should be realised what was the object of those Acts when they were enacted. And what is the object of the present Bill? There is a vast difference between the times when those Acts were enacted and the present times. It will be observed by reading those Acts that they were made at a time when the non-co-operation and the civil disobedience movements were not in force, and it will also be realised that in those days the children were under the control of the parents. There was no wave of unrest of the present nature operating to take away children from the control of their parents. It was only intended in those days to punish those parents who would not take care of or support their children or who would fail to act in such a manner as to leave the children uncared for. Those Acts were intended to provide punishment for defaulting parents who neglected their children. But what is the condition now? You all know that the present wave is too strong. It has got hold of the youngsters, many of them have left their parents, and several parents have lost control over these youngsters. Neither the parents nor the Professors, while the youngsters remain in schools and colleges, are heeded much. Sir, these are the days of freedom, and, especially, with this wave, the provisions of those Children's Acts could never serve as precedents for framing an Act like the present one. Now, going further, we find that the provisions of even those Acts are more satisfactory than the provisions contained in the present clause. I should like to read section 25 of the Bombay Children Act, 1924, which says:

"Where a child or young man is convicted of an offence punishable with fine and the Court is of opinion that the case would be best met by the imposition of a fine, whether with or without any other punishment, the Court may, in any case, and shall, if the offender is a child, order that the fine be paid by the parent or guardian of the child or young man, unless the Court is satisfied that the parent or guardian cannot be found or that he has not conducted to the commission of the offence by neglecting to exercise due care of the child or young person."

I am laying stress upon the last proviso that has been added which throws the burden upon the prosecution. Now, compare this with the provision that has been made in the present Bill. Here, the Court is not to convict a person unless it is satisfied—not that the accused has to satisfy the Court. That is quite plain. Therefore, coming to the clause that has been added,—I do not know if the attention of the Select Committee Members was drawn to the fact that the clause as proposed to be added is meaningless when it throws the burden on the accused. I will read the sub-clause. It says:

"Before making an order under this section the Court shall give the parent or guardian an opportunity to appear and be heard, and no such order shall be made if the parent or guardian satisfies the Court that he has not conducted to the commission of the offence by neglecting to control the offender, or that the offence was not committed in furtherance of a movement prejudicial to the public safety or peace."

Thus it is quite plain that the burden is thrown on the accused. This cannot possibly be denied, but if you read the former legislation, there the satisfaction of the Court was dependent primarily on the evidence of the prosecution. There is a vital difference, and we should not be deceived by

[Mr. Lalchand Navalrai.]

the fact that an *Explanation* has been put which says that the parent could satisfy the Court that he had not been neglectful. It must be shown by the prosecution that the parent either acquiesced in the doings of his son, or that he did not take prompt measures, and, it is then only, that he should be made amenable to this clause. Therefore, this clause has not at all been improved upon; on the contrary, the burden has been put upon the parents, which is absolutely unjust. Then, proceeding further, the other difference is that in the present clause, no appeal has been provided against any order of fine imposed on the parent, whereas we find that clause (4) of section 25 of the Bombay Children Act, 1924, provides that the parent or guardian may appeal against such order as if it had been an order passed in proceedings against himself. Now, no such provision has been put in, and people would be misled as to whether the Criminal Procedure Code does apply to this clause and whether there will be an appeal or not. I have put in certain amendments, which will come on later to elicit fully from the Honourable the Law Member as to whether punishments and convictions under this Bill are liable to appeal and open to revision or not. With regard to the present clause, I would like to get a clear statement from the Honourable the Law Member as to whether the Criminal Procedure Code applies to this clause or not, and whether the omission of this clause about appeals, which appears in the former Acts, and its non-incorporation in the present Bill, is deliberate, or that it is because the Criminal Procedure Code provides it . . . .

**The Honourable Sir Brojendra Mitter** (Law Member): Sir, the Criminal Procedure Code does apply,—because it will be an order of an ordinary Magistrate: and an order of an ordinary Magistrate is always appealable or subject to revision, as the Criminal Procedure Code provides.

**Mr. Lalchand Navalrai:** I am thankful to the Honourable Member, but the point is this. In section 408 of the Criminal Procedure Code, it is said:

“Whoever is convicted of an offence will have a right of appeal.”

The words are general no doubt, but where, in a particular matter like this, the conviction is against the child or young man, and the fine is going to be recovered from the parent, I want to know whether that would really be a conviction or sentence or not. I cannot, therefore, understand, if that is the intention, why is it that proviso No. 4 to the former Bombay Children Act is not incorporated here in order to remove all misunderstanding. Sir, I would also like to submit that many instances have been cited in order to show that the parent will be unnecessarily punished and made to pay a fine where the children are not living with him, but are living at long distances from him in different parts of India. One cannot possibly understand how a parent is negligent in allowing his sons to join such a movement when they have been sent elsewhere either to receive education or to join some avocation. Therefore, I submit that cases of that nature would be very hard cases and one does not know if such a distinction will be made by Magistrates. As the clause is at present, it makes the parent punishable for the crime of the son. Even if the fine is not paid by the child, it will be recovered from the parent. The clause is very oppressive. I, therefore, support the amendment.

**Rao Bahadur B. L. Patil** (Bombay Southern Division: Non-Muhammadan Rural): Sir, I have several objections to this clause as it has emerged from the Select Committee. However, I am prepared to congratulate the Honourable Members who worked on the Select Committee for the improvements they have done in this clause, but unfortunately the improvements are very few and not substantial. Sir, the author of this clause seems to have assumed that all guardians can control all the actions of their children. He seems to have thought that children are like toys whose movements can be controlled by means of wires, pulling them whenever they like to pull them. Unless the author of this clause is under this kind of assumption, I think no reasonable person would have drafted it in the form in which we see it. Even if we look to the provisions of the Indian Penal Code, we will see that the liability of a child is exempted if the child is below seven years of age. Such a child is altogether exempted from punishment. Why should not the corresponding period be fixed in this case? We know, as a matter of common sense, that children, as they begin to grow, come in contact with outside people. Is it possible for any parent on this earth to control each and every influence that is likely to come upon a child who is allowed to go in the streets, who is allowed to go to his school and play ground and who is allowed to come in contact with the people in the street. Therefore, if the author of this clause had exercised a little practical common sense, certainly the clause would not have found any place in this Bill. I am prepared to call this clause only a money-making clause.

Then, Sir, I come to the wording of sub-clause (2) of this clause. The words are: "a movement prejudicial to the public safety or peace". It is very difficult to know beforehand what are the movements that are prejudicial to the public safety or peace in their very nature. Unless there is a movement for committing rebellion or unless there is a movement to commit organised dacoities, and so on, it is not possible to say beforehand what movements are likely to lead to the breach of the public peace. Therefore, it is not proper that such vague terms should be used in this clause and parents should be held responsible for the acts done by their children. For these reasons, I support the amendment.

**Mr. Uppi Saheb Bahadur** (West Coast and Nilgiris: Muhammadan): Mr. President, I rise only to make a suggestion to the Treasury Benches. We have been reading in Aesop's Fables the story of the lion and the kid. It will be well if the Bureaucracy revise the Aesop's Fables and tell the world that there was a Bureaucracy which ruled in India and which told Indians that, if you have not committed a sin, your son has; so you must suffer and be punished. With these observations, I support the motion.

**Pandit Satyendra Nath Sen** (Presidency Division: Non-Muhammadan Rural): Sir, I rise to support the amendment. This clause, I think, is a very wide one. I understand that vicarious punishment is in vogue in Western countries as well as in some parts of this country. But I refuse to believe that the law of Western countries is our Gospel, and it has been shown very ably by my Honourable friend, Mr. Lalchand Navalrai, that the law prescribed in other parts of India materially differs from that which is proposed to be enacted here. Sir, the political condition of Western countries and the condition of India are widely different from each other. Their peace has not been disturbed so vitally as ours. And, as to the genesis of the trouble, Pandit Jha has made a true diagnosis.

[Pandit Satyendra Nath Sen.]

It was the Government who introduced into the country a system of Godless education and it does not lie in their mouth to say that a parent or an accidental guardian is liable for the acts of his ward over whom he may have no control. I would have been prepared to support such a measure if it were brought forward, say, 50 years ago, but I am not prepared to support it today. And what can I do? How can I restrict the activities of my son? If I restrict his activities, I come under clause 7, and if I do not, I come under clause 8. So I am between Scylla and Charybdis. I am helpless and so I support the amendment.

**Mr. S. G. Jog** (Berar Representative): Sir, in the old programme of this Bill which purports to combat the civil disobedience movement, from my point of view and from the point of view of all parents who have children, I think this clause is of vital importance. Probably those who have no children or who are not likely to have any children in future are not in a position to judge the consequences of the implications in this clause and, to that extent, I can excuse some of those who cannot realise the consequences of this measure. It is no doubt true that this particular clause is to some extent an improvement on the section as it was incorporated in the Ordinance Act. For the information of the House, I will read out the section in the Ordinance Act.

"(1) Where any young person, under the age of sixteen years, is convicted by any Court of an offence under this Ordinance or of an offence which, in the opinion of the Court, has been committed in furtherance of a movement prejudicial to the public safety or peace, and such young person is sentenced to fine, the Court may order that the fine shall be paid by the parent or guardian of such young person as if it had been a fine imposed upon the parent or guardian :

Provided that no such order shall be made unless the parent or guardian has had an opportunity to appear before the Court and be heard.

"(2) In any such case the Court may direct by its order that in default of payment of the fine by the parent or guardian, the parent or guardian shall suffer imprisonment as if the parent or guardian had himself been convicted of the offence for which the young person is convicted."

I must sincerely offer my congratulations to the authors of the Bill because we have been saved from the punishment of imprisonment.  
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**Mr. K. Ahmed** (Rajshahi Division: Muhammadan Rural): What did you do in the Committee?

**Mr. S. G. Jog:** My Honourable friend wants to know what we did in the Select Committee. There we did our best to get rid of this clause. We suggested several amendments, but we were quite helpless in the matter. As regards the point suggested by my Honourable friend, Mr. Navalrai, as regards the burden of proof, we tried our best to throw it on the prosecution. I have got in my hand a draft which will show how we tried to meet the question of the burden of proof. I will read out the draft:

"Where any young person, under the age of sixteen years, is convicted by any Court of an offence under this Act or of an offence which, in the opinion of the Court, has been committed in furtherance of a movement prejudicial to the public

safety or peace and such young person is sentenced to fine, the Court may order that the fine shall be paid by the parent or guardian of such young person as if it had been a fine imposed upon the parent or guardian :

Provided that no order shall be made under this section unless—

(i) the parent or guardian has had an opportunity to appear before the Court and be heard;

(ii) the Court is satisfied that the offence was committed in furtherance of a movement prejudicial to the public safety or peace;”

So it will be seen that we distinctly suggested that the burden of proof should be on the prosecution. So long as the prosecution has not proved that the offence was committed in furtherance of a movement prejudicial to the public safety or peace, the Magistrate cannot impose the fine on the parent.

Another safeguard is :

“The Court is satisfied that the parent or guardian has condoned to the commission of the offence by neglecting to exercise due control over such young person.”

This clause definitely and distinctly throws the burden of proof on the prosecution before the parent or the guardian can be called upon to pay the fine. It is the prosecution alone that must establish that the offence was committed in furtherance of a movement and that the parent has not done anything by which it can be said that he neglected his duties, responsibilities and obligations. We tried our best in the Committee to throw this burden of proof on the prosecution, but to my surprise we could not carry this point. I still press that if this improvement is not made in the clause, I, for one, would like that the whole clause should be deleted. It is no doubt a great encroachment upon the rights of the guardian or parent and, in future, the prospective parent must be more careful that he does not come within the operation of this clause. I think it is also an encroachment against the commandments of God, “live and multiply” and there is great danger in carrying out the instructions of God. I submit that this should have no retrospective effect, but it should be applied only to the future children and I hope that those who will vote for the retention of this clause will do so with a full sense of responsibility. I support the amendment.

**Major Nawab Ahmad Nawaz Khan** (Nominated Non-Official): I oppose the amendment. Many Honourable Members do not realise the necessity for this clause, because they have had no personal experience. In 1930, when the civil disobedience movement was started, some of the lawyers in Dera Ismail Khan instigated the young children to take part in this movement. There were processions and young children of six, seven, or eight years of age went through the streets crying “Long live Revolution”. They did not say so in English, but they cried “*Inqilab Zindabad*”.

**Pandit Satyendra Nath Sen**: Does the Honourable Member deny that there may be innocent guardians or parents?

**Major Nawab Ahmad Nawaz Khan**: I will come to that. Through the bazaars it was very difficult for an official to pass. Batches of children would crowd round motor cars and cry “*todi bacha hai hai*” and “*Inqilab Zindabad*”. Naturally the men who felt insulted would not beat the young children. On the Circular Road, ladies—European and Anglo-Indian—were stopped by small children.

**Pandit Satyendra Nath Sen**: And the parents are liable.

**Major Nawab Ahmad Nawaz Khan:** The Deputy Commissioner invited Hindu and Muhammadan gentlemen and said: "You are the Leaders, and the City Fathers of this City, you had better exert your influence". Many people came after two or three days and said they could not exert any influence. This was the reply. Mr. Yog Raj, an Extra Assistant Commissioner, was specially deputed to exert his influence among the Rai Bahadurs and Rai Sahibs and the Hindu Congressite members. After a few days' efforts, he came and plainly told about the wickedness of these people. They can stop these things, but they did not intend to do so. Outwardly they come before you and tell you, they are all with you, but when they go home, they tell their children to do as usual. So, may I ask the Honourable Members, if tomorrow such a thing is started in Delhi and passengers are hooted, jeered, by small children, what do you propose to do.

**Pandit Satyendra Nath Sen:** Are we to meet these hypothetical cases?

**Major Nawab Ahmad Nawaz Khan:** Naturally we cannot send these small children to jail; we cannot beat them so much as to make them unconscious. We thought the teachers and other people would at least tell the policemen the names of the fathers or mothers of these children, and it was requested by both Hindu and Muhammadan gentlemen that policemen should be allowed to slap or cane these boys. After four days, the whole trouble stopped. I think, after all this sad and bad experience, it is necessary that parents should be made responsible for these children. I oppose the amendment.

**The Honourable Mr. H. G. Haig** (Home Member): Sir, I think it is common ground on both sides of the House that children have been used in this movement in a very undesirable way. I think we all equally deplore this use of children, this bringing of children into the political movement. My Honourable friend, Mr. Lalchand Navalrai, has drawn a very melancholy picture of indiscipline in the younger generation. In fact he thinks that indiscipline has gone so far that there is no remedy at all. I shall return to that in a moment, but at this point I will merely say that I cannot accept that extremely gloomy picture. But admittedly there is a certain amount of indiscipline and steps have got to be taken to deal with this problem.

**An Honourable Member:** With the children or with the parents?

**The Honourable Mr. H. G. Haig:** I am coming to that in a moment if the Honourable Member will only exercise a little patience.

My Honourable friend, Pandit Ram Krishna Jha, while admitting and deploring these conditions, suggested,—and I do not want to differ from him,—that to some extent these conditions may have arisen from a defective system of education. For that he blames Government. Government are blamed always and for everything; but I would just like to remind him that for the last ten years education has been a provincial transferred subject and that, therefore, during that time one would hope that the Honourable Member might have done something to effect the improvements that he considers so desirable. But, Sir, the problem cannot be dealt with merely by blaming either the Government or the

responsible Ministries in the Provinces. We have a practical problem which has got to be dealt with now. It is quite true that some improvements in the educational system may gradually bring about a change in the conditions, but we have to do something now.

Well, Sir, when children commit offences of this kind it is of course possible to punish them. My Honourable friend, Mr. Thampan, suggested that they should be punished by whipping. Well, Sir, we, the British people, I think a great many of us, have a considerable belief in the utility of corporal punishment on proper occasions. But I do not think that on the whole public opinion in this country goes with us and I cannot help feeling that if Mr. Thampan put up this proposal before this House, he would secure very little support from the Opposition Benches to the suggestion that these children should be whipped. What other punishment remains? Imprisonment. Now, surely, it is most undesirable that young children should be sent to jail; I cannot imagine anything more undesirable. Therefore, we are driven to give up the attempt to find suitable punishment and we try instead to do what is always far better and that is to prevent. How can these activities be prevented? Our case is that they can be prevented by enforcing parental responsibility. Honourable Members opposite suggest that parental control has ceased to exist, that they are utterly powerless over their children and that the children do precisely what they like. Sir, if that is the present state of affairs, it has clearly got to be remedied. It is a deplorable social condition in any country, and some real effort has got to be made to remedy it. And this clause will do something to bring home to parents that they have a responsibility for looking after their children; and, I think, when they apply their minds to it, they will find that they can control their children and that they are not so powerless as some Honourable Members opposite suggest. Facts indeed bear out that contention. At the beginning of the civil disobedience movement, this nuisance from children was very serious. After this provision had been introduced, it diminished in a most marked manner. We have had reports from a number of Local Governments saying that as soon as this provision was introduced, the nuisance from children decreased to a very marked extent. Now, what had happened? Obviously the parents had applied their minds to the problem and had been able to exercise control and prevent their children taking part in these activities. That, Sir, is a very full justification for this provision. I oppose the amendment.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is :

"That clause 8 of the Bill be omitted."

The motion was negatived.

**Mr. S. C. Mitra**: Sir, I beg to move :

"That in sub-clause (1) of clause 8 of the Bill, for the word 'sixteen' the word 'fourteen' be substituted."

My main ground is that due to climatic conditions in this country, youths attain maturity much earlier than elsewhere and sometimes they are precocious. So the age of sixteen is too high. Referring to the various Children's Acts, I find that a child has been defined as a person below the



[Mr. S. C. Mitra.]

age of 14 years. So if it is necessary to have a provision like this, at least the age should not be sixteen years, but fourteen years. With these words, I move my amendment.

**Mr. N. R. Gunjal** (Bombay Central Division Non-Muhammadan Rural): (Speaking in the vernacular, the Honourable Member supported the amendment.)

**The Honourable Mr. H. G. Haig:** Sir, as the House is aware, there are various precedents in local legislation for provisions of this nature, and, in every case, the definition of young person is one who is under the age of 16. I think it is a very reasonable age limit to fix. We certainly do not want young persons between the ages of 14 and 16 sent to jail. Sir, I oppose.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in sub-clause (1) of clause 8 of the Bill, for the word 'sixteen' the word 'fourteen' be substituted."

The motion was negatived.

**Mr. S. C. Mitra:** Sir, I move:

"That in the *Explanation* to sub-clause (1) of clause 8 of the Bill, the words 'the charge of or' be omitted."

My purpose is that in the *Explanation* "guardian" has been defined to include any person who, in the opinion of the Court, has for the time being the charge of or control over the offender. I think anybody who has control over the offender or the young person might be punished; but the words "to have the mere charge of" are rather wide. It will be difficult for the headmaster of a school, having hundreds of students who are technically in his charge, if he has to pay the fines that might be inflicted on the students of the school: it will be really an impossibility. I think, on these considerations, the words "the charge of or" might be omitted, and the only element that has to be considered in making the guardian responsible for the conduct of his ward is when he has control over the offender.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Amendment moved:

"That in the *Explanation* to sub-clause (1) of clause 8 of the Bill, the words 'the charge of or' be omitted."

**The Honourable Sir Brojendra Mitter:** Sir, this is a drafting point; there is really not much substance in it and I refer my Honourable friend, Mr. Mitra, to the English drafting. I know he has Stroud with him (*An Honourable Member*: "Halsbury."), and if he will look at page 842, "guardian includes any person who, in the opinion of the Court, has for the time being the charge of or control over the child". It is, as I said, a drafting point and both these expressions have got definite meanings and they ought to be there.

**Mr. B. V. Jadhav:** With all due deference, Sir, I may point out that the word in the clause is not "guardian", but whether a person who is to be fined for the offence committed by a young person is to be the person in charge of or under whose control he is. And as the two persons,—one in whose charge he is, and the person under whose control he is, may be two different persons,—and, to be in charge of a boy merely makes the clause penal, I think I ought to support the amendment moved by Mr. Mitra.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in the *Explanation* to sub-clause (1) of clause 8 of the Bill, the words 'the charge of or' be omitted."

The motion was negatived.

**Mr. Amar Nath Dutt** (Burdwan Division: Non-Muhammadan Rural): Sir, I move the amendment that stands in my name, although from the attitude of the Government it were better not to put in any amendment; but only to register my protest and to show to the public at large the attitude of the Government that I have put down the amendment. I know full well that the Government will not accept any amendment whatever to what they think ought to be the law of the land under the present conditions. Still I move:

"That for sub-clause (2) of clause 8 of the Bill, the following be substituted:

'(2) No such order shall be made if the young person is not under the control of parent or guardian and maintained by such parent or guardian.'"

If I were to give reasons for the proposed amendment and attempt to try to convince the House of the reasonableness of this amendment, I think I would not take much time if they were really prepared to be convinced and really prepared to accept any argument or listen to any arguments on our side. As I have found from day to day that they will not listen and it is useless and futile for us to advance any argument, I shall refrain from doing so. But at the same time I submit that I do move my amendment knowing it to be a forlorn cause and I do not expect that the Government will accept even a reasonable amendment like mine. If it were necessary I have not got that precious little book about which my friend over there had a hit against me—he would not dare hit my Honourable friend, Mr. S. C. Mitra—but he knows that he can well hit me often and about the precious little book of Sir John Salmond which was read by the Honourable the Law Member the other day . . . .

**Mr. K. Ahmed:** Which volume?

**Mr. Amar Nath Dutt:** I have not got that book with me, nor do I care to go through the book, because I know only such passages will be picked up by the Honourable the Law Member which will support his own argument and he would not care to look to the argument on the other side. That is really the duty of an advocate; in fact, even after becoming the chief law officer of the Crown, he has not forgotten that he was one of the most brilliant advocates of the Calcutta Bar . . . .

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): It is desirable that the Honourable Member should come to the point.

**Mr. Amar Nath Dutt:** It is to the point in this way: I do not like to put in all the arguments in favour of my amendment knowing full well that those will not be acceptable to them; be that as it may, since you have asked me to advance some arguments, I shall do so. In the old story in the fables, we know that the father of the lamb did some mischief and that was the charge against the lamb and, therefore, the lion devoured the lamb. In this case, the process has been just reversed. It is not the father who is the offender, but it is the son and, therefore, you must come down upon the father. I have heard the Honourable the Home Member while opposing the deletion of this clause and, I wonder, with all the pious phrases and the way in which he tried to convince us, really he can refuse to accept the amendment which I have submitted. He began by saying that it was common ground that the children had been used in an undesirable manner. I do not know where he found this common ground that children had been used in an undesirable manner. I for one can say that very few children of responsible parents have been found to be so used. That being so, I submit that it is not common ground, and it is merely assuming things which do not exist.

Then, my Honourable friend a few minutes later contradicting himself said that he would not accept the extremely gloomy picture drawn by my friend, Mr. Jha, about the present day youths. I do not know which of his statements should be accepted. If my friend really believes in the first statement which he made, namely, that children had been used in an undesirable manner, and if that is so, then certainly parents and guardians have control over them, and they are being maintained by them. So I say that they not merely control but also maintain them. One way by which parents can punish their children and prevent them from going wrong is by denying food and clothes. But it is also a fact that children sometimes go astray and parents have no control over them, and so I have used the words:

"no such order shall be made when the young person is not under the control of the parent or guardian and maintained by him."

If the Government were reasonable, I am sure they will not hesitate to accept this amendment. The Honourable Member accused us and said that the Government was always blamed by this side. I submit that they blamed sometimes unjustly, it may be, but mostly they are blamed for their unjust and unjustifiable acts. This is one of the instances in which you inflict vicarious punishment on the father for the sin of begetting a son.

Then, Sir, I would not refer to a casual remark of his when he said that during the last ten years education has been a transferred subject. We all know that, but, I am sure, he will not deny that the effect of the system of education that has been introduced into this country, the modern ideal, especially the ideas of communism, socialism and Bolshevism, all these are imported from the west—is really deplorable. In this land of ours, which is the home of ancient civilization and culture, certainly such wild dreams and wild ideas never existed, and I challenge my friend to point out to any scripture of the Hindus and the Muslims alike which advocates such wild ideas or theories as those advocated by Lennin and others. In fact, if you had not interfered with our civilisation and, if you had not imposed your own ideas upon us with a view to producing

a few clerks under you to serve you and help your administration, I think this class of youth about whom you complain now would not have been produced, and so it does not lie in your mouth to blame us.

Sir, I am really grateful to the Honourable the Home Member for the sentiment he expressed, because he said that in the matter of whipping public opinion will not favour it. Here we are really glad to find that the Honourable the Home Member is paying a homage to public opinion, and if he really pays such homage to public opinion, I do not think he will hesitate to accept this amendment.

Then, Sir, my friend also spoke of the deplorable social condition which he said was responsible for all this trouble. I say, it is not merely the deplorable social condition, but it is also the deplorable political and economic condition for which you are responsible . . . .

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Order, order. .

**Mr. Amar Nath Dutt**: No, Sir, not you (Laughter), because you are also a victim like myself. I mean the Government which are responsible for our present political and economic condition. This is neither the place nor the occasion to discuss that aspect of the matter. Here I am in the position of an advocate or an appellant before the Government to lessen the rigours of that Draconian law, and I do once more appeal, and I hope Government will accept this amendment.

**Mr. B. V. Jadhav**: Sir, I think equity will induce Government to accept this amendment. I support it.

**The Honourable Sir Brojendra Mitter**: Sir, what my Honourable friend, Mr. Amar Nath Dutt, is seeking to do is to give a new definition to "guardian". His definition has two elements, control and maintenance. Sir, it is a risky business to play with drafting which has been recognised in Statutes for many years without causing any difficulty or confusion. As I pointed out a short while ago, the definition of "guardian" in the Bill has been taken from the English law. It has been on the Statute-book for many years and it has given no trouble. Sir, I shall now show how my Honourable friend's definition would lead to absurdities. I mean no offence. Supposing there is a child or a young person, whose home is in Burdwan. His father lives in Burdwan and he sends that child to Calcutta for education, and the child lives with the father's brother in Calcutta, under the control of the latter. The father month by month sends Rs. 50 to his brother for the maintenance of the child. There the uncle has got the control, but the child is being maintained by the father. If my friend's definition is accepted, there must be both control and maintenance. In that case, the uncle would be excluded, although he has got the control, because the child is being maintained by the father. My friend's definition would certainly exclude the uncle, whom we want to get at. His definition is: "No such order shall be made if the young person is not under the control of parent or guardian and maintained by such parent or guardian". It is conjunctive. That will defeat the purpose of this clause, because in this case we want to enforce that guardianship authority is exercised by the uncle under whose

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care and control the child is living in Calcutta. But under my Honourable friend's amendment that uncle would be immune. That is the absurdity which I wanted to point out. Sir, I oppose the amendment.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That for sub-clause (2) of clause 8 of the Bill, the following be substituted:

'(2) No such order shall be made if the young person is not under the control of parent or guardian and maintained by such parent or guardian'."

The motion was negatived.

**Mr. Lalchand Navalrai: I move:**

"That in sub-clause (2) of clause 8 of the Bill, the words 'satisfies the Court that he' be omitted."

Sub-clause (2), as it now stands, reads as follows:

"Before making an order under this section, the Court shall give the parent or guardian. . . and no such order shall be made if the parent or guardian satisfies the Court that he has not condoned to the commission of the offence. . ."

If the words "satisfies the Court that he" are taken away, the clause would read as follows:

". . . no such order shall be made if the parent or guardian has not condoned to the commission of the offence. . ."

If the words proposed are taken away, it will be upon the prosecution to prove that the parent or guardian has not condoned to the commission of the offence. I am only asking that the fundamental principle that burden of proof should always be on the prosecution should be maintained. The present clause is an un-British law and I want to make it British by the deletion of these words.

**Mr. T. N. Ramakrishna Reddi** (Madras ceded Districts and Chittoor: Non-Muhammadian Rural): I support this amendment. In this case it is not the offender that has to pay the fine. You are asking the parent or guardian to pay the fine, and that parent or guardian has not committed the offence himself. So the burden of proof must be on the prosecution that such a parent or guardian had a hand in the commission of the crime by the boy. What is the quantum of proof that is expected by the Government that the parent or guardian has to prove that he had no hand in the commission of this crime? The Courts will come with a determination that the boy has committed the crime, and any amount of proof by the parent will not avail them. For the last so many days we are trying by moving amendment after amendment, some very reasonable, to convince the Government to accept at least some amendments. They have come with a determination not to accept any amendment, and that will be exactly the position in regard to the Court. Though the parent has proved that he had absolutely no hand and that he was not at all in the know of what the boy had done, in spite of that, the Court will say, "No, no, without your connivance the boy would not have committed the crime". So, it is impossible for any guardian to prove that he was not responsible for the crime and it is no use simply asking the guardian that he should satisfy the Court that he has not

conducted to the commission of the crime. This is a case of vicarious suffering and hence the burden must always be on the prosecution to prove that the guardian had conducted to the commission of the crime. I beg to support the amendment.

**Mr. S. C. Sen** (Bengal National Chamber of Commerce: Indian Commerce): I support this amendment. In the Select Committee, we had a long discussion over this clause on whom the onus will lie. Precedent after precedent was cited. The Bengal Act, Bombay Act, C. P. Act, and Madras Act were also cited. They were all in one way and the clause, as drafted by the Select Committee, was put before the Select Committee which also shows that the onus was on the prosecution. But somehow or other that was subsequently changed and we now find the clause as it is now here. I will refer you to the Bengal Children's Act. There it says:

"... unless the Court is satisfied that the parent or guardian cannot be found or that he has not conducted to the commission of the offence by neglecting. . ."

That has been improved here by stating "unless the parent or guardian satisfies the Court that he has not conducted to the commission of the offence . . .". There the Court is to be satisfied; and here the onus is expressly put on the guardian to satisfy the Court that he has not conducted. Under these circumstances, I submit that the amendment which has been moved is in conformity with all the local Acts which are now in existence and also the English Act to which the learned Law Member referred in this House. I, therefore, support the amendment.

**The Honourable Sir Brojendra Mitter:** I hope the House will bear with me if I deal with this matter of onus in some detail. From the debate I gather that there is a good deal of confusion of ideas with regard to this question of onus. It is undoubtedly the law that onus in the first instance must be on the prosecution. It is also an accepted principle of the law of evidence that ordinarily the onus of proving the negative should not be imposed upon any party. But as Honourable Members are aware, all these principles are subject to exceptions and I shall come to the exceptions when I deal with the question of proving the negative. My learned friend, Mr. Lalchand Navalrai, as well as my learned friend, Mr. Sen, assumed that under the Children's Act the onus is upon the prosecution. I shall show that it is not so. The Children's Act says this:

"Unless the Court is satisfied that the parent or guardian cannot be found or that he has not conducted to the commission of the offence."

Sir, the Court has to be satisfied that the parent or guardian has not conducted to the commission of the offence. Very well. Who is to satisfy the Court? The test is this. The onus is on the party who would fail if no evidence were given. Supposing the prosecution gives no evidence as regards the parent's conduct and the parent also gives no evidence, then the Court is not satisfied one way or the other. Therefore, if no evidence is given, the parent loses. (Interruption by Mr. Lalchand Navalrai.) If you will kindly allow me to go on, I shall make the point perfectly clear. In section 102 of the Evidence Act, it is laid down that the burden of proof in a suit or proceeding lies on that person who would fail if no evidence at all were given on either side. Now, in this case,

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what happens? The prosecution succeeds in establishing the guilt of the child. The child is fined and the prosecution further satisfies the Court that the offence was committed in furtherance of the civil disobedience movement. The onus of all this was upon the prosecution. If the Court is satisfied, then the Court says, this is a case in which the fine will be recovered from the father. The prosecution gives no other evidence. The father gives no other evidence. What happens? The father has to pay. In the absence of evidence, the father fails and it follows that the onus is on the father. Sir, that is the law in the Children's Act despite what my friend, Mr. Navalrai, said: "Unless the Court is satisfied that the parent or guardian has not conduced to the commission of the offence."

**Mr. S. C. Sen:** Why not put the phraseology in that form?

**The Honourable Sir Brojendra Mitter:** That is another matter. I am dealing with one of your fallacies. I shall deal with the second fallacy now. I have shown that we are doing nothing extraordinary or in variance with the Children's Act. Then comes the question—on whom should the onus be placed? I say, the onus ought to be placed upon the parent or guardian. Here comes this question of proving the negative. I shall draw the attention of the House to a passage in Woodroffe's standard work on Evidence. I suppose even my friend, Mr. Amar Nath Dutt, will accept the authority of that book. At page 739, I am reading from the 8th Edition, it says this:

"As already observed, the first exception to the general rule that the burden of proof rests with the party who asserts the substantial affirmative is that it does not apply where there is a *prima facie* presumption one way or the other."

That is one exception. I am not now dealing with that particular exception of presumption. The obvious illustration of that is this. A man is found in possession of goods recently stolen. The onus is upon him to show that his possession is not guilty possession. That is an illustration of this presumption. The second exception is relevant to the present question. That exception to the above named general rule is stated in section 106 of the Evidence Act, namely, that where the subject matter of the allegation lies peculiarly within the knowledge of one of the parties, that party has to prove it whether it be of an affirmative or a negative character, and even though there be a presumption of law in its favour. As regards the quantum of parental control which is being exercised over a child, who has got peculiar knowledge of that fact—the Government or the father himself? It is within the peculiar knowledge of the father or guardian what amount of control is being exercised over the child. That being so, the onus of proving is upon the parent of the child. Section 106 of the Evidence Act says this:

"When any fact is especially within the knowledge of any person, the burden of proving that fact is upon him."

Whether it is an affirmative or a negative does not matter. In this case what has got to be proved is that on account of the absence of parental control, the child has gone astray. That is the issue before the Court. The Court says: "Well, here is your child who has been fined and you ought to pay the fine, unless you can show that the child was

not under your control or you have some other excuse". The person who has to prove excuse must have the onus upon him, the excuse being that the child was not under his control, that he lived in a distant place under the care of somebody else or whatever the excuse may be. I have shown that this is the law in the Children's Act and that ought to be the law in any Act. What we have provided for is this, that the parent or guardian can satisfy the Court that he has not conduced to the commission of the offence. The prosecution does not know what the relation between the father and the son is. Sir, the prosecution has to prove two things, first, that the offence has been committed in furtherance of an objectionable movement. That the prosecution must prove before the parent can be called upon to pay the fine and the prosecution must also show that the offence committed is such that fine is the appropriate punishment. It is only when these two requirements are satisfied, that the parent can be called upon to pay. When the parent is called upon to pay, he can come to the Court and prove that he has not conduced to the commission of the offence by any negligence on his part. That is within his knowledge. He alone can prove it. He can prove further that the offence for which he has been called upon to pay was not committed in furtherance of an illegal movement. We have given the parent two

1 P.M. defences. One defence is that he was not guilty of any negligence, and the second defence is that the offence was not in furtherance of any such movement. Sir, where is the objection, either in theory or in law or in common sense to this provision? We have considerably modified the provisions of the Children's Acts and that was in deference to the wishes of the Members . . . . .

**Mr. S. C. Sen:** How have you modified the provisions of the Children's Acts?

**The Honourable Sir Brojendra Mitter:** The point raised by my Honourable friend is not strictly pertinent to the amendment before us, but still I shall answer him. Sir, under the Children's Acts, all that is necessary for calling upon the parent to pay is that the young person is convicted of an offence punishable with fine. That offence need have no connection with an illegal movement. Now, we have restricted this clause to offences *in furtherance* of illegal movements. That is a material modification. Under the Children's Acts, whenever a child is fined, the parent can be called upon, but here we say, "a parent can be called upon to pay only if the offence was committed in furtherance of—(not even in connection with)—an illegal movement". Is not that a modification and a substantial modification?

**Mr. S. C. Sen:** That was already in the Ordinance.

**The Honourable Sir Brojendra Mitter:** What is the relevancy of that remark? If my Honourable friend thinks he will annoy me, he will fail in that. Sir, so far as onus is concerned, the onus *was* on the parent in the Children's Acts, and the onus is on the parent under this clause. I oppose the amendment.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in sub-clause (2) of clause 8 of the Bill, the words 'satisfies the Court that, he' be omitted."

The motion was negatived.



**Mr. K. P. Thampan:** Sir, I move:

"That in sub-clause (2) of clause 8 of the Bill, after the words 'to control the offender' the words 'or that the offender was not in his charge at the time of the commission of the offence' be inserted."

Sir, the object of my amendment is obvious. I want to extend the scope of the exception a little further, and that a guardian who has not got the offender in his charge at the time of the commission of the offence should not be liable to the punishment. Sir, the Honourable the Law Member, in reply to amendment No. 69, moved by my Honourable friend, Mr. Amar Nath Dutt, said that the word "guardianship" postulated two things: "the liability to maintain, and also the liability to control". Sir, my difficulty arises out of that explanation; otherwise I should not have cared to move this amendment after the disposal of my friend, Mr. Amar Nath Dutt's amendment. Now, in my part of the country, under the Marumakkathayam and Aliyasantanam laws, the legal guardian of a boy is his uncle. Thus my sons' guardians are their uncles. (*An Honourable Member*: "Not the father?") No. Now the boy of course lives with me or in the hostel and not in the Tarawad or uncle's house, because under modern conditions wife and children generally live with the husband and the father of the children. The uncle or legal guardian never maintains nor controls them. Of course, legally they are entitled to maintenance from the Tarawad, but very few give it, and cases for maintenance are instituted . . . . .

**Sir Muhammad Yakub** (Rohilkund and Kumaon Divisions: Muhammadan Rural): Then mend your own ways.

**Mr. S. C. Mitra:** Yes, mend your own nose first.

**Mr. K. P. Thampan:** What I mean to say is that so far as the parent or father with whom the children live is concerned, there is neither the liability to maintain nor the legal control which the Honourable the Law Member thinks the guardians have. So what I wish to say is that unless this clause is explained further and guardians in the circumstances mentioned are excluded from the scope of the clause, there will be trouble. Sir, I move.

**The Honourable Sir Brojendra Mitter:** Sir, I think my Honourable friend, Mr. Thampan's apprehension is not well-founded. If you look to the definition of the word "guardian", it includes "any person who, in the opinion of the Court, has for the time being the charge of or control over the offender". It is a question not of legal guardianship at all; we are talking of guardianship in fact.—that is one who has got the control of the child, who can control the movements of the child. We are not thinking of the legal right of guardianship.

**Mr. K. P. Thampan:** Then my trouble is more fancied than real?

**The Honourable Sir Brojendra Mitter:** I should think so. Then, further, in the defence that has been given under sub-clause (2), if the parent or guardian can satisfy the Court that he has not been negligent—and when there is no duty, there cannot be any negligence . . . . .

**Mr. K. P. Thampan:** Sir, under our Marumakkathayam law, the uncle is the legal guardian.

**The Honourable Sir Brojendra Mitter:** What I mean to say is that if the child remains under the care and custody of A—B may be the legal guardian, but we are dealing with A under whose care and control the child was living when he committed the offence—then A has to satisfy the Court that he has not been negligent. We are dealing with the *de facto* guardian, not the *de jure* guardian and that is quite clear from the definition of the word “guardian”. We never used the words “legal guardian”.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is:

“That in sub-clause (2) of clause 8 of the Bill, after the words ‘to control the offender’ the words ‘or that the offender was not in his charge at the time of the commission of the offence’ be omitted.”

The motion was negatived.

**Mr. S. G. Jog:** Sir, the amendment which stands in my name substantially aims at the same object which my friend, Mr. Lalchand Navalrai, has in view, but in a different way. The amendment runs thus:

“That in sub-clause (2) of clause 8 of the Bill, for all the words occurring after the words ‘to control the offender, or’ the following be substituted:

‘until the Court is satisfied that the offence was committed in furtherance of a movement prejudicial to the public safety or peace.’”

While making my speech in support of the amendment to delete the clause, I made my position perfectly clear as regards the burden of proof. The Honourable the Law Member charged this side of the House with a little confusion as regards the legal aspect of the point of burden of proof. So far as the other point is concerned, namely, that the parent has not taken due care or has neglected his ward, to that extent I feel inclined to concede that the section quoted by him is right. When the offence is in the knowledge of a party, then in that case the burden of proof lies on the party who is in possession of that particular knowledge. But as regards the other point, I should like to make the position clear. When the case goes on against the child the element of offence, so far as the child is concerned, is not that the particular offence with which he is charged was committed in furtherance of a movement which affected the public peace, etc. That element is not necessary to prove so far as the liability of the child is concerned, but when you want to hold the parent responsible for the fine imposed upon the child, then a further element is incorporated. If the offence for which the child is charged is done in furtherance of a movement which is prejudicial to the public peace and safety, then in that case alone the responsibility and the liability attaches to the parent. He is held responsible, because the child has committed a certain offence which is positively in furtherance of a movement which affects the public safety. That is a condition precedent in order to make the parent liable to pay the fine. Is it not necessary, is it not incumbent on the prosecution to prove that before the liability of the parent is established, that particular element ought to be proved against him? How can the Honourable Member say that this fact is particularly within the knowledge of the guardian, so that when the guardian comes forward, it is for him to raise that point by way of defence or by way of exemption that the offence was not committed in furtherance of a movement prejudicial to public safety or peace. I think it is doing the thing in a wrong way. The confusion, so far as this particular point is concerned, I submit, is not on this side of the House,

[Mr. S. G. Jog.]

but it is more with the Honourable the Law Member. Before attaching the liability to the parent, the prosecution must establish that the offence with which the child is charged was committed in furtherance of a movement prejudicial to the public safety and, therefore, the parent is responsible to pay the fine. I can concede that the fact that the child was fined need not be proved, because we can take it for granted that the child was fined, but there is a further element which is essential for imposing or fixing the liability to the parent.

Under these circumstances, I submit that the prosecution must prove that fact and in that case the burden of proof must lie with the prosecution. To that extent, I submit, that the wording of sub-clause (2) must undergo a change. I have already explained what transpired in the Select Committee. We press for it. Not only that, but we had a draft on the lines I have suggested in which it was distinctly said that the prosecution must prove that the offence was committed in furtherance of a movement prejudicial to the public peace. So far as the other element is concerned, namely, that the parent should take the proper care of the child, etc., that burden should lie on the parent.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Amendment moved:

"That in sub-clause (2) of clause 8 of the Bill, for all the words occurring after the words 'to control the offender, or' the following be substituted:

'until the Court is satisfied that the offence was committed in furtherance of a movement prejudicial to the public safety or peace'."

**The Honourable Sir Brojendra Mitter**: Sir, if I have understood my learned friend, Mr. Jog, correctly, his point is that the fact that the offence was committed in furtherance of an illegal movement should be proved by the prosecution before the parent or guardian can be called upon to pay the fine. Sir, under sub-clause (1), the onus is upon the prosecution. Sub-clause (1) says this:

"Where any young person, under the age of sixteen years, is convicted by any Court of an offence which, in the opinion of the Court, has been committed in furtherance of a movement prejudicial to the public safety or peace."

Sir, unless the prosecution can prove that the offence was committed in furtherance of an illegal movement, this clause does not come into play. Therefore, under sub-clause (1), the onus is upon the prosecution. Why my learned friend, Mr. Jog, thinks that the onus is not on the prosecution, I cannot understand. It is only when the prosecution has satisfied the Court that the offence was committed in furtherance of an illegal movement that the Court can ask the parent to pay the fine.

**Mr. S. C. Sen**: Sir, there is a similar amendment standing in my name also.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member is entitled to speak and the Chair has called upon him to do so.

**Mr. S. C. Sen**: Sir, we had a full discussion about this matter in the Select Committee and I then pointed out that the onus ought to be on the prosecution to prove that the offence was committed in furtherance

of a movement as mentioned in this clause. The Honourable the Law Member has now referred to the earlier portion of this clause, namely, sub-clause (1), where it is said:

"Where any young person, under the age of sixteen years, is convicted by any Court of an offence which, in the opinion of the Court, has been committed in furtherance of a movement prejudicial to the public safety or peace."

Now, Sir, before the Court can order or before the Court can call upon the parent to appear before it, the Court must be satisfied upon *ex parte* evidence given in the absence of the guardian. A guardian does not come in until he is being called upon to come before the Court to show cause, whatever it is. Therefore, the onus, even in the presence of the guardian, ought to be on the prosecution to prove as against the guardian, in his presence, the affirmative that the offence has been committed in furtherance of such object. How is the onus discharged? On the other hand, sub-clause (2) says:

"before making an order under this section, the Court shall give the parent or guardian an opportunity to appear and be heard, and no such order shall be made if the parent or guardian satisfies the Court that he has not condoned to the commission of the offence by neglecting to control the offender, or that the offence was not committed in furtherance of a movement prejudicial to the public safety or peace."

How is the onus then on the prosecution? Whatever the Magistrate may say, it has upon *ex parte* evidence not taken before the parent. The sentence of fine is there, the fine against son, and the parent is then called upon to pay as if he is the guilty person and, therefore, the onus must be on the prosecution to bring home the guilt to the parent, namely, that the offence was committed in furtherance of an illegal object. I, therefore, say that the amendment moved by Mr. Jog is perfectly in order, and the Honourable the Law Member admitted a few minutes ago that the onus was on the prosecution to prove this fact. But this is *ex parte*, it is in the absence of the accused. Is that a proper discharge of the onus? The Law Member states that when the guardian is called upon to pay there would be two issues. Firstly, the committal of the offence, and secondly, that the offence has been committed in furtherance of this object. These are to be proved by the prosecution. Thereafter, he said, if the parent wanted to get rid of his liability, he must disprove the presumption of parental control, the onus to disprove is on the parent himself. We want all these things to be clearly put. That is the object of the amendment.

**The Honourable Mr. H. G. Haig:** Sir, my Honourable friend, Mr. Sen, has developed apparently a very learned argument, but the point, as far as I understand it, is perfectly simple. It is provided in sub-clause (1) of this clause that if in the opinion of the Court an offence has been committed in furtherance of a movement prejudicial to the public safety or peace, the Court may order that the fine should be paid by the parent or the guardian, that is to say, the Court must have certain definite reasons put forward by the prosecution for coming to that conclusion, but before reaching its final conclusion and when merely a *prima facie* case has been established, it is provided that the Court before making its order should give the parent or the guardian an opportunity to appear and rebut that presumption. That appears to me to meet in every way the requirements of justice. I oppose the amendment.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in sub-clause (2) of clause 8 of the Bill, for all the words occurring after the words 'to control the offender, or' the following be substituted:

'until the Court is satisfied that the offence was committed in furtherance of a movement prejudicial to the public safety or peace'."

The motion was negatived.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That clause 8 stand part of the Bill."

The motion was adopted.

Clause 8 was added to the Bill.

The Assembly then adjourned for Lunch till Thirty-Five Minutes Past Two of the Clock.

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The Assembly re-assembled after Lunch at Thirty-Five Minutes Past Two of the Clock, Mr. President (The Honourable Sir Ibrahim Rahimtoola) in the Chair.

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**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Clause 9.

**Mr. S. C. Mitra**: Sir, I beg to move:

"That clause 9 of the Bill be omitted."

One could understand the anxiety of Government to punish a man who was trying to do some mischief. When a man is found guilty, the Courts will no doubt inflict adequate punishment, but why should the ordinary procedure laid down for trial of cases be departed from? There are four parts in this clause. In the first sub-clause, trial is confined to the Court of a Presidency Magistrate or a Magistrate of the first class. It may be said that it is a precautionary measure and only experienced and able Magistrates should try these cases. But I find that, as a matter of practice, it cuts the other way also. If these petty cases are brought before second class or third class Magistrates, whose power to inflict severe punishments is limited, there is some chance of the offences being visited with lighter punishments. So, why should there be this provision that for these minor offences the trial should be confined to Magistrates who can inflict heavier punishments? Sub-clause (ii) says that an offence punishable under section 2, 3, 5, 6 or 7 shall be cognizable by the police. As regards section 2, which deals with dissuasion from enlistment in the Military, Naval or Air Forces or even as regards section 3 which deals with tampering with public servants, I have not much to say. But as to the other three sections, I do not see why it should be cognizable by the police. It means that the police, even under these sections, will arrest without warrant. Section 5 is dissemination of the contents of a proscribed book, section 6 is dissemination of false rumours and section 7 is picketing.

In these cases I do not see why there should be arrest by the police without warrant and why this provision has been specially made. In sub-clause (iii), it is said that an offence punishable under section 4, that is, boycott of public servants, shall be an offence in which a warrant shall ordinarily issue in the first instance. If it is not with the purpose of prejudicing the mind of the Magistrate that Government are anxious to secure a conviction, why is there this special provision that warrants shall ordinarily issue? It should be left to the Magistrate to issue a summons or a warrant. And now the fourth sub-clause says that an offence punishable under section 7, that is, the picketing section, shall be non-bailable. It is nobody's case that the civil disobedience people or the Congress people are anxious to escape trial or conviction. So I do not see why it should be particularly made non-bailable. For all these reasons I think there is no special case made why in this emergency legislation the ordinary criminal procedure should not be followed. Sir, I move the deletion of this whole clause as I think it is unnecessary.

**Mr. B. V. Jadhav:** Sir, I support the amendment.

**Mr. N. R. Gunjal:** (Speaking in the Vernacular, the Honourable Member supported the amendment.)

**The Honourable Mr. H. G. Haig:** Sir, it has been said in the course of these debates that it is difficult to please the Opposition. We had an illustration of that yesterday when the Opposition criticised very severely the *Explanation* to clause 7, and then, when we said, by all means delete it, they preferred to retain it. Now, in the same way, with reference to the first sub-clause of this clause, in the debates in Simla, a great point was made of the fact that these new offences,—some of them requiring careful examination and discrimination,—were triable by Magistrates of any class. We met that criticism, and provided that they should be triable only by Magistrates of the first class, only to find my Honourable friend, Mr. Mitra, criticising us on another ground. It is obvious that we can do nothing which will satisfy all sections of the Opposition. With regard to sub-clause (ii), these are offences the continued commission of which it is most important to put a stop to, and for that reason, in order that the powers can be really effective, it is most important that the offences should be made cognisable by the police. Take for instance the case of picketing. If the police are not able to arrest the picketer, it is very difficult for them to take effective action to stop picketing. With regard to sub-clause (iii), owing to the special nature of the offence of boycotting, we have provided a special procedure so that a Court should not take cognizance of an offence unless upon complaint made by due authority. That makes it impossible for the offence to be cognisable. But the offence in itself is a serious offence and I submit that it is entirely justifiable that when the complaint is duly authorised, a warrant should issue. And, finally, sub-clause (iv) makes the offence of picketing non-bailable. There, again, if the picketer immediately he was arrested could offer bail and go on with his picketing, it would make the task of the police a difficult one. Sir, I oppose the amendment.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That clause 9 of the Bill be omitted."

The motion was negatived.

**Mr. Lalchand Navalrai:** Sir, I move:

"That in part (ii) of clause 9 of the Bill, the figures "2, 3, 6" be omitted."

Figure 2 refers to clause 2 which relates to dissuasion from enlistment, clause 3 refers to tampering with public servants and clause 6 refers to the dissemination of false rumours. My amendment aims at requesting that offences under these three clauses should not be made cognisable. During the debate on this, the Honourable the Home Member said that if these offences were not left to the police to be dealt with as cognisable, false or malicious complaints might be made by particular persons out of grudge. Now, my reply to that is very clear. If a complaint is made by a private man which is false or frivolous, the first opportunity for the Magistrate before whom the complaint will be lodged, will be to follow the procedure of satisfying himself whether the complaint is true or false by examining the complainant under section 200 of the Criminal Procedure Code; and then, later on, if he finds that it is false or frivolous, he can fine such a man under section 250, Criminal Procedure Code. In a like manner there is a section in the Indian Penal Code—section 211—under which a man can be prosecuted and punished for making a false complaint. So these are the safeguards already and, therefore, it will on the contrary be easier for private complaints being made to the police out of grudge. It is hardly expected that the police officer would satisfy himself in such a way as to be sure that the complaint is not false. The second ground, in my submission, with regard to this, is that these offences are made very heinous and very drastic, and they are of a novel character. I think it is for the first time that the Legislature is making laws like this: of course we know that laws like this have been in this country under the Ordinances, but that is a different question altogether. When the matter comes now before a responsible Legislature to consider whether they should give sanction to these offences, at any rate it lies very heavily upon this House to consider whether any safeguards which are reasonable should be put or not. Then, my third reason is that I find that more serious offences when actually committed—here only attempts or fears are made punishable,—against public servants are non-cognisable and bailable. I would only refer to Chapter X of the Indian Penal Code which comprises of offences committed against public servants. I find section 186—obstructing a public servant in the discharge of his public functions—is not cognisable and bailable. Then, again, the next section 187 deals with omission to assist a public servant when bound by law to give assistance, a much more serious offence. This is also non-cognisable and bailable. Then we have wilful neglect to aid a public servant for the purpose of execution of process and disobedience of an order lawfully promulgated by a public servant if such disobedience causes obstruction, annoyance or injury to a person lawfully employed, and then threatening a public servant with injury to him or to one in whom he is interested, and then threat of injury to induce a person to refrain from applying for protection to a public servant—these are all offences more heinous; yet they are all bailable and non-cognisable. Thus there is absolutely no reason why the offences under the clauses of this Bill should be made cognisable.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Amendment moved:

"That in part (ii) of clause 9 of the Bill, the figures "2, 3, 6" be omitted."

**The Honourable Mr. H. G. Haig:** Sir, I have already by anticipation dealt generally with the points made in this amendment. The general answer to the contentions of the Honourable Member, Mr. Lalchand Navalrai, is that these are all offences the immediate stoppage of which is very essential and, unless the offence is made cognisable, it is not easy to provide an effective and immediate deterrent to its continuance. In regard to some of the sections of the Penal Code which the Honourable Member suggested were of a somewhat similar character and were now non-cognisable and bailable, I would invite his attention, if he is at all concerned with our lack of consistency, to the next clause, clause 10, and he will find many of them included there. Sir, I oppose the amendment.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in part (ii) of clause 9 of the Bill, the figures "2, 3, 6" be omitted."

The motion was negatived.

**Mr. S. C. Mitra:** Sir, I move:

"That Part IV of clause 9 of the Bill be omitted."

Clause 4 deals with an offence punishable under section 7. By this emergency legislation we are creating new offences. Clause 7 deals with picketing, and in future even peaceful picketing will be prohibited. Therefore, there is no reason why this offence should be made non-bailable. As I have said previously, it is very unlikely that offenders will try to escape, and there is no reason why section 7 should be made non-bailable.

**Mr. B. V. Jadhav:** Sir, I rise to support this amendment. When the previous amendment was moved by my friend, Mr. Mitra, for the deletion of the whole clause, the Honourable the Home Member dealt with the various sub-clauses of this clause and said that in order to stop picketing, the offence should be made non-bailable. I do not think it is necessary to make this offence non-bailable, because when a picketer is arrested by a policeman, he has to be taken to the nearest police station, because the policeman cannot afford to accept bail at the place where the man is arrested, and, therefore, the offender will have to be taken to the nearest police station and there the bail has to be arranged, and, in the ordinary course, it will take some time. Therefore, the fear that is entertained that the same man will offer himself for picketing and thus create an interminable amount of work for the police is without foundation. The maximum punishment for this offence is only six months, and, therefore, such an offence does not deserve to be made non-bailable. I, therefore, heartily support this amendment.

**Raja Bahadur G. Krishnamachariar** (Tanjore *cum* Trichinopoly: Non-S.P.M. Muhammadan Rural): Sir, I wish to say only very few words in support of this amendment. It has been held in all the High Courts that the only criterion upon which an offence should be declared bailable or non-bailable, the only standard on which a person, even though arrested for a non-bailable offence, should be released on bail or not is whether he would appear at the trial and stand it. That is the only condition on which the Courts say they would either grant bail or



[Raja Bahadur G. Krishnamachariar.]

refuse it. Now, whatever may be said in favour of or against these picketers, one thing is clearly declared by them, that is, they are not the people to run away. They come to the Courts and stand their trial. The trying Magistrates ask them if they have anything to say. They say "No". They make no defence; they do not trouble the police or the Courts by any elaborate arguments in justification of their action, and they are not persons who are afraid of Courts. Therefore, why make this offence non-bailable at all?

Then, Sir, I was surprised to hear the Honourable the Home Member saying,—I hope I have heard him properly,—I was surprised to hear my friend say that if you release this man on bail, you will never be able to have a proper inquiry. I know in the Courts of some Magistrates invested with first or second class powers, when a person is arrested and brought before them, the police always get up and say: "Oh, don't release him; if you release him, our business is gone". Those of my friends who are lawyers will support me when I say that this is invariably the argument which is advanced by the police. They have nothing else to say. A man is arrested; the Counsel appears and applies for bail, and the only reply that the Public Prosecutor or the police have to say is: "Oh, don't release him, because our business will be spoiled". Now, what is this business? In Hyderabad, there was an old Commissioner of Police who specifically wanted time, that is to say, extending the remand of the accused person for Mollama Gowaan, that is to say, tutoring witnesses, and they put that in black and white there. I am not exaggerating. If, therefore, you want to have Molloma Gowaan, it is all right, otherwise what do you want to harass him for? You arrest him for things which are of a doubtful nature over which we have had long discussions. Now, you take him into your custody . . . .

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The Chair does nothing of the kind.

**Raja Bahadur G. Krishnamachariar**: I am afraid, Sir, that something has gone wrong with me that I have always to appeal to the Chair to support me and the Chair will not support me and leave me to the tender mercies of the official block. I apologise to you, Sir. Really speaking, the whole argument is addressed to the Government. There is one clause which I have not been able to understand, and that clause says, always address the Chair. If I address the Chair, the Chair says: "I don't want to hear you". I do not know what to do.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member's long judicial experience should tell him that when he is addressing the Chair, he has to follow the simple procedure of using the third person instead of the second.

**Raja Bahadur G. Krishnamachariar**: Very well, Sir, I will try. When I make the mistake, I would ask to be excused, but I don't do it wilfully or out of any disregard for the dignity of the Chair.

Sir, I was speaking on the question of harassment to the picketer. I did not speak on the first amendment, because I wanted to see how the Home Member was going to support clause 4. What he said was, this argument of a second grade pleader before a second class Magistrate on

behalf of the police saying that he will not be able to offer Mollama Gowaan. I hope that is not the ground that compels you to make this offence non-bailable. Therefore, it is not that you want to bring the man to justice, but it is pure and simple harassment. Sir, I have no sympathy for these people. I do not belong to their party. I have severed all my connection with them long long ago, but when I find that you are enacting a law in the highest tribunal here, and when you are enunciating a proposition which, I very respectfully submit,—and I ask the Law Member to say whether I am right or wrong,—is dead against every principle that has been laid down by the High Courts, I feel that you are not doing the right thing, and, therefore, I support this amendment.

**The Honourable Mr. H. G. Haig:** Sir, my friend who sits behind me as usual has treated the House to various reminiscences dating, I suppose, from the time when he was not, as he described myself, a second grade pleader, but no doubt a first class Advocate. At the same time, Sir, when this first class Advocate is quoting the arguments which have been used, he might have been pleased to do me justice by quoting them with some approach to accuracy. He said that I had supported this provision on the ground that otherwise the police would never be able . . .

**Raja Bahadur G. Krishnamachariar:** I spoke subject to correction. I did not hear properly.

**The Honourable Mr. H. G. Haig:** I said nothing of the sort. My argument never approached that point. And I would suggest that when my friend does not hear me in future, he should at any rate refrain from misrepresenting me. The reason for making this offence non-bailable I have already explained in my answer to the first amendment on this clause. It is that if the offence is bailable, the picketer arrested goes off after getting bail and is back again either the same day or the next day engaged once more on picketing. That is not the way in which it will be possible for the police effectually to deal with this curse of picketing. I do not think, Sir, there is any other point that I need make, and I oppose the amendment.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question I have to put is:

“That Part IV of clause 9 of the Bill be omitted.”

The motion was negatived.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is:

“That clause 9 do stand part of the Bill.”

The motion was adopted.

Clause 9 was added to the Bill.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is:

“That clause 10 do stand part of the Bill.”

**Mr. S. C. Mitra:** Sir, I move:

"That clause 10 of the Bill be omitted."

In the previous clause we were dealing with newly created offences and we tried to induce Government to make the offences not cognisable by the police or make them bailable. This clause deals with the old sections of the Indian Penal Code which have been in operation for a number of years, and an attempt is now being made to make them more rigorous by making them cognisable and some non-bailable. Section 186 deals with obstructing a public servant in the discharge of his public functions. Section 188 deals with disobedience to duly promulgated orders; section 189, threat of injury to public servants; 190, threat of injury to persons to refrain them from applying for protection from a public servant; and section 228 deals with intentional insult to public servants sitting in judicial proceedings. That is one group. Another group is section 295A which deals with outraging religious feelings; section 298, wounding religious feelings by uttering words. Section 505 deals with public mischief, and 506 and 507 with criminal intimidation. All these sections were so far non-cognisable; that is to say, the police had no right to arrest the alleged offenders without a warrant of arrest from the Court. I do not know what special evidence the Government have now that all these sections have failed to attain their object during all these years. Again, offences under section 188 or section 506 are made non-bailable. I do not know what fresh facts in connection with the Congress movement or the civil disobedience movement have come to light for a change in the established law which has served the purpose for all these years. So, whatever may be the reasons for creating new offences, at least the old law should not be unnecessarily tampered with. Sir, I move the deletion of the whole clause.

**Mr. S. C. Sen:** I have no desire to take part in this discussion but for the fact that I want to point out to the Honourable the Home Member that whatever attempt he may make to supplement the provisions of the local Acts, the Local Governments do not require his help at all. I refer to section 22 of the Bengal Suppression of Terrorist Outrages Act, 1932, passed by the Bengal Government only recently. The section says:

"Notwithstanding anything contained in the Code, an offence punishable under section 160, 186, 187, 188, 189, 227, 228, 505, 506, 507 or 508 of the Indian Penal Code, or under section 17 of the Indian Criminal Law Amendment Act, 1908, shall be cognizable and non-bailable."

**Mr. S. C. Mitra:** That is more comprehensive.

**Mr. S. C. Sen:** Here with the greatest difficulty we make the Home Member see that these offences should not be made non-bailable, but in the Bengal Act they are all made non-bailable. We are, therefore, in this dilemma whether the Bengal Act is the correct one, or the Imperial Act. We believed that the Home Member brought these forward because he thought that the Bengal Government had no power to change the Criminal Procedure Code, but we now find that the Bengal Government are quite capable of looking after their own interests irrespective of the help of the Government of India. I ask the Honourable the Home Member to let us know which one will prevail so that we may know our position in Bengal.

**The Honourable Mr. H. G. Haig:** The object of this clause is to secure that offences which are almost without exception those that are likely to be committed in connection with the civil disobedience movement, or movements of that character, should, if the Local Governments so require, be made cognisable and non-bailable, and the general justification for that is that which I have already explained in relation to the clause that has just been passed. With regard to the point made by my Honourable friend, Mr. Sen, I have not with me at the moment a copy of the Bengal Suppression of Terrorist Outrages Act, but my recollection of that Act is that it was passed for a very definite purpose, namely, to deal with terrorist offences in Bengal. Here we are dealing with a much wider and more general purpose. So far as conditions in Bengal are concerned, I take it that it is only in connection with offences of that type that section 188 and so on are non-bailable. I should be glad to be corrected if I am wrong. If that is so, I do not think that the dilemma which my Honourable friend has presented to me is a real one.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question which I have to put is:

"That clause 10 of the Bill be omitted."

The motion was negatived.

**Mr. S. O. Mitra:** Sir, I move:

"That sub-clause (2) of clause 10 of the Bill be omitted."

Having failed to carry the deletion of the whole clause, I confine my motion to sub-clause (2) alone. Here offences under section 188 and section 506 of the Indian Penal Code have been made non-bailable. Section 188 deals with disobedience to order duly promulgated by a public servant, and the punishment provided is simple imprisonment for one month or fine of Rs. 200 or both. The other section, 506, deals with criminal intimidation. That is also a compoundable offence. So I think that these two sections should not be non-bailable and my amendment is for the deletion of this sub-clause.

**Mr. B. V. Jadhav:** I support the amendment.

**The Honourable Mr. H. G. Haig:** I do not think I need add anything to the considerations I have already referred to in connection with clause 9. I oppose the amendment.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That sub-clause (2) of clause 10 of the Bill be omitted."

The motion was negatived.

Clause 10 was added to the Bill.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Clause 11.

**Mr. S. O. Mitra:** In clause 11, provision is made to the effect that the Governor General in Council may, by notification in the Gazette of India, declare an association to be unlawful. Under section 16 of the Criminal Law Amendment Act of 1908, the Local Governments had that power. Now attempt is made to give the same power for the Governor General in Council also. In the areas that are directly under the Government of India, I think there are local authorities and the Chief

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Commissioners have the right to promulgate these orders. I shall be glad to know what are the special reasons after so many years for providing that the Governor General in Council should have that power also.

**The Honourable Mr. H. G. Haig:** The Criminal Law Amendment Act, as originally passed, provided that associations should be declared unlawful by the Governor General in Council. At a later date, by a general Devolution Act, provision was made devolving these powers on Local Governments but, through what I think was inadvertence, while delegating these powers to Local Governments, steps were not taken to retain them for the Governor General in Council. That is an obvious omission in the law and the object of this clause is to remedy that omission. It may well be that a particular unlawful association is not confined to one province alone and it may, therefore, be necessary for the Governor General in Council to take action in particular cases as well as for Local Governments to have the same power.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That clause 11 do stand part of the Bill."

The motion was adopted.

Clause 11 was added to the Bill.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Clause 12.

**Mr. S. C. Mitra:** I move for the deletion of clause 12. My argument is simply the same, that non-cognisable offences should not be made cognisable, nor bailable offences be made non-bailable.

**The Honourable Mr. H. G. Haig:** We have argued the general question more than once. I would say with regard to this clause that it is a matter of the very greatest importance and has been found to be so in dealing with the present movement—that this particular offence should be cognisable and non-bailable.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That clause 12 of the Bill be omitted."

The motion was negatived.

Clause 12 was added to the Bill.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Clause 13.

**Mr. B. V. Jadhav:** I move:

"That clause 13 of the Bill be omitted."

That clause provides for the insertion of a number of sub-clauses in the Indian Criminal Law Amendment Act after section 17 of that Act. 17A is power to notify and take possession of places used for the purposes of an unlawful association. Then 17B and 17C, and so on. These are very drastic additions. They take away the liberty of the subject and

in a way are very tyrannical. Then there is the question of movable property being taken possession of and forfeited to Government. These provisions are very objectionable and, therefore, I move that the whole clause be deleted.

**The Honourable Mr. H. G. Haig:** Clause 13 confers certain powers which I need not specify at length, for they will be dealt with in the amendments put down on the paper. They have been found particularly useful in the Presidency from which the Honourable Member who has just spoken comes. They have been found to be most essential for coping with this movement of civil disobedience. The organisations, particularly in the Bombay Presidency, function from well known headquarters either in the city of Bombay or in various village centres and since those headquarters were openly functioning in defiance of the authority of Government the effect on the population generally was to establish the belief that these organisations were in effect parallel powers to Government and were successfully setting up their authority against the authority of Government. When powers were taken to seize these headquarters and to forfeit the movable property and in other ways to disorganise, what I may call, the headquarters organisation, the effect was very marked and rapid and I would venture to impress on the House that this clause is one of those to which the Government attach the greatest importance.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That clause 13 of the Bill be omitted."

The motion was negatived.

**Mr. S. C. Mitra:** Sir, I move:

"That in clause 13 of the Bill, in the proviso to sub-section (2) of the proposed section 17-A, for the words 'women or children' the words 'any person' be substituted."

Sir, in this clause there is power given to "the District Magistrate or, in a Presidency-town, the Commissioner of Police, or any officer authorised in this behalf in writing by the District Magistrate or Commissioner of Police, as the case may be" to "take possession of the notified place and evict therefrom any person found therein, and shall forthwith make a report of the taking possession to the Local Government". There is a provision that:

"where such place contains any apartment occupied by women or children, reasonable time and facilities shall be afforded for their withdrawal with the least possible inconvenience."

Now, my amendment is that reasonable time and facilities will be necessary not only in the case of women and children, but in the case of any person who may be there. I do not see why Government may not accept this suggestion that reasonable time and facilities should be given to all persons and not women alone.

**Mr. B. V. Jadhav:** Sir, I rise to support this amendment. In the Select Committee, the Government were very kind to insert this proviso regarding the granting of reasonable time and facilities to women and children. Now, the plea is put forward that the same leniency should be shown to even males also, and I do not see why that concession should not be so given. If any men are found to be offending against the laws, then of course they will be taken away under the non-bailable clauses

[Mr. B. V. Jadhav.]

by the police and the question of giving facilities to them does not arise. The concession is asked for persons who are not concerned at all in the work of the unlawful association; and, so, if women and children are to be given facilities—and they ought to be given facilities of course—the same facilities ought to be extended to men also who are not at all concerned in the work of the unlawful association; and I, therefore, support this amendment.

**The Honourable Sir Brojendra Mitter:** Sir, when this Bill was introduced, it was not thought necessary that any such provision should be made in the case of the premises to be taken possession of. It was contemplated that such premises should be vacated without delay. But it was pressed upon us that it might be inconvenient for women and children to vacate the premises actually occupied by them, all at once and that special mention should be made of women and children. Not that it is likely that the Magistrate should harass them, but that still, for the sake of greater caution, women and children should be specifically mentioned. We do not think it is at all necessary, but, in order to meet the Opposition, we are quite agreeable to have that provision. The same facilities are not, however, necessary in the case of male adults, and there is no reason why the concession made to women and children should be extended to males also. I oppose the motion.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is:

“That in clause 13 of the Bill, in the proviso to sub-section (2) of the proposed section 17-A, for the words ‘women or children’ the words ‘any person’ be substituted.”

The motion was negatived.

**Pandit Satyendra Nath Sen:** Sir, I rise to move.

“That in clause 13 of the Bill, in the proviso to sub-section (2) of the proposed section 17-A, for the words ‘women or children’ the words ‘a woman or a child or an invalid’ be substituted.”

Sir, this amendment seemed to me to be so reasonable that I was hesitating whether I should move it, because, by moving it, I would be giving the Government an opportunity to say that they have accepted some amendment which has been proposed by the Opposition. Sir, the words that occur in the Bill are “women or children”. I do not know whether the plural number used there is deliberate. However, I want to put the words in the singular and I have also added the words, “an invalid”. Sir, there is no doubt that women and children are deserving of the greatest sympathy and consideration, and Government are prepared to make provision for them, but I beg to point out that owing to the indefatigable efforts of such gallant Knights as Sir Hari Singh Gour and Sir Harbilas Sarda . . . . . (Some Honourable Members: “He is not a ‘Sir’.”) A prospective ‘Sir’, no doubt, the condition of Indian women has been ameliorated and some of them in fact are growing to be more masculine than men. But invalids are always helpless and utterly helpless. They cannot be expected to vacate immediately if proper facilities and reasonable time are not afforded to them. Suppose

an invalid is suffering from cholera or small-pox. How can you expect that he should be able to vacate forthwith? It would be most unreasonable and inhuman to expect him to do that. Sir, we have been watching the attitude of Government during the last few days and I will not be very much surprised if the Honourable the Law Member or the Honourable the Home Member will stand up and say that there may be some bogus cases of invalidism, and that in order to exclude those bogus cases they are not prepared to make any provision for any such case whatsoever on that ground. If that be their position, I might also tell them that if there might be bogus invalids, there might be bogus women also. (Laughter.) If they are prepared to make consideration for women and children, they should make consideration for invalids also. Sir, I move.

**Mr. Amar Nath Dutt:** Sir, I have no such nervousness about the reasonableness of my Honourable friends opposite as my friend has. So far as the merits of this Bill are concerned, reasonable or unreasonable, they will have it. Well, that being so, my friend apprehended that in order to appear to show a reasonable attitude, the Government might accept his amendment and, therefore, he said he was hesitating to move it. I can assure him, however, as I have been watching the Honourable Members opposite, that they are not going to accept his amendment, coming as it does from my friends on this side, because the Government fear there must be something in it which probably they might not yet have discovered, but which might occur to them afterwards.

**The Honourable Sir Brojendra Mitter:** I have discovered that.

**Mr. Amar Nath Dutt:** Sir, on the merits, there is no doubt that my friend's amendment is an eminently reasonable one, and far more than women and children is the protection to invalids necessary. But I do not expect the Government to accept this motion, however reasonable it may be. Then, again, I do not see any necessity for moving an amendment like that, because you will find that everything has been left to the discretion of the officers concerned. If they do not choose to act as provided in the proviso, there is nothing to prevent them from doing so. That being the case, it is only a pious wish that has been expressed in the proviso or it is meant to hoodwink those who will not see the real meaning of it. The proviso says:

"where such place contains any apartment occupied by women or children, reasonable time and facilities shall be afforded for their withdrawal."

Am I to understand that if this provision was not there, no reasonable time even to women and children would have been given? If the Government assure me that that is their apprehension, then once in my life I shall be with them, because in that case, I would take it that they see eye to eye with the grievances of the people and they know exactly what their subordinates are likely to do. In this state of things, I think I had better lend my support to the amendment of my Honourable friend rather than depend upon the sweet reasonableness of my friends over there.

**The Honourable Sir Brojendra Mitter:** Sir, I oppose the amendment as wholly unnecessary. We might as well add in this clause a woman, a child, or an invalid, or the blind or the maimed or the deaf and the dumb. We might go on adding to the list. It is wholly unnecessary and I oppose it.



**Mr. President** (The Honourable Sir Ibrahim Rahimtools): The question is:

"That in clause 13 of the Bill, in the proviso to sub-section (2) of the proposed section 17A, for the words 'women or children' the words 'a woman or a child or an invalid' be substituted."

The Assembly divided:

AYES—37.

Abdur Rahim, Sir.  
Aggarwal, Mr. Jagan Nath.  
Azhar Ali, Mr. Muhammad.  
Bhuput Sing, Mr.  
Chetty, Mr. R. K. Shanmukham.  
Dutt, Mr. Amar Nath.  
Gour, Sir Hari Singh.  
Gunjal, Mr. N. R.  
Harbans Singh Brar, Sirdar.  
Isra, Chaudhri.  
Jadhav, Mr. B. V.  
Jog, Mr. S. G.  
Krishnamachariar, Raja Bahadur G.  
Lalchand Navalrai, Mr.  
Mittra, Mr. S. C.  
Mody, Mr. H. P.  
Muazzam Sahib Bahadur, Mr.  
Muhammad.  
Murtaza Sahab Bahadur, Maulvi  
Sayyid.

Parma Nand, Bhai.  
Patil, Rao Bahadur B. L.  
Phookun, Mr. T. R.  
Puri, Mr. Goswami M. R.  
Rastogi, Mr. Badri Lal.  
Reddi, Mr. P. G.  
Reddi, Mr. T. N. Ramakrishna.  
Sadiq Hasan, Shaikh.  
Sant Singh, Sardar.  
Sarda, Diwan Bahadur Harbilas.  
Sen, Mr. S. C.  
Sen, Pandit Satyendra Nath.  
Singh, Kumar Gupteshwar Prasad.  
Sitaramaraju, Mr. B.  
Sohan Singh, Sirdar.  
Thampan, Mr. K. P.  
Uppi Sahab Bahadur, Mr.  
Yakub, Sir Muhammad.  
Ziauddin Ahmad, Dr.

NOES—47.

Abdul Hye, Khan Bahadur Abul  
Hasnat Muhammad.  
Acott, Mr. A. S. V.  
Allah Baksh Khan Tiwana, Khan  
Bahadur Malik.  
Amir Hussain, Khan Bahadur Saiyid.  
Anklesaria, Mr. N. N.  
Bajpai, Mr. G. S.  
Bhore, The Honourable Sir Joseph.  
Bower, Mr. E. H. M.  
Burt, Mr. B. C.  
Dalal, Dr. R. D.  
Dunn, Mr. C. W.  
Dutt, Mr. G. S.  
Fox, Mr. H. B.  
Graham, Sir Lancelot.  
Greenfield, Mr. H. C.  
Gwynne, Mr. C. W.  
Haig, The Honourable Mr. H. G.  
Hezlett, Mr. J.  
Hudson, Sir Leslie.  
Ishwarsingji, Nawab Naharsingji.  
Ismail Ali Khan, Kunwar Hajee.  
James, Mr. F. E.  
Jawahar Singh, Sardar Bahadur  
Sardar.  
Lal Chand, Honv. Captain Rao  
Bahadur Chaudhri.

Macqucen, Mr. P.  
Meek, Dr. D. B.  
Metcalfe, Mr. H. A. F.  
Mitra, Mr. B. N.  
Mitter, The Honourable Sir  
Brajendra.  
Moore, Mr. Arthur.  
Morgan, Mr. G.  
Mukherjee, Rai Bahadur S. C.  
Nayudu, Rao Bahadur B. V. Sri Hari  
Rao.  
Nihal Singh, Sardar.  
Rafuddin Ahmad, Khan Bahadur  
Maulvi.  
Rajah, Rao Bahadur M. C.  
Rau, Mr. P. R.  
Ryan, Mr. T.  
Schuster, The Honourable Sir George.  
Scott, Mr. J. Ramsay.  
Sher Muhammad Khan Gakhar,  
Captain.  
Singh, Mr. Pradyumna Prashad.  
Smith, Mr. R.  
Sorley, Mr. H. T.  
Tottenham, Mr. G. R. F.  
Yamin Khan, Mr. Muhammad.  
Zulfqar Ali Khan, Sir.

The motion was negatived.

**Mr. B. V. Jadhav:** Sir, I move:

"That in clause 13 of the Bill, in sub-section (2) of the proposed section 17B, for the words 'forfeited to His Majesty' the words 'kept in the custody of Government' be substituted."

In this clause 13, certain sections are sought to be added to the Indian Criminal Law Amendment Act, 1908. The first, section 17A, gives power to notify and take possession of a building or a house if it is used by an unlawful association, and the second, 17B, to which this amendment is being moved by me, relates to moveable property found in that notified place. So the whole place is really to be taken over by Government with the moveable property that will be found there. In the case of the immoveable property, Government have made provision that after the association ceases to be unlawful, the immoveable property will be restored to that association. An unlawful association under this Act is not from its inception an unlawful association. It is an association which is carrying on its work lawfully and it is recognised as lawful for a number of years. But for reasons known to Government they come to a decision and declare it to be an unlawful association and take possession of the buildings or offices or whatever there may be. Government are so very hard-hearted that they will not allow any time or concession even to an invalid person to be comfortably removed. Be that as it may, it is certain that they are not forfeiting immoveable property. But when they take possession of the moveable property, let us see how they propose to dispose of it. The method is detailed in this proposed section 17B.

"The District Magistrate, Commissioner of Police or officer taking possession of a notified place shall also take possession of all moveable property found therein, and shall make a list thereof . . ."

I have nothing to say against this.

"If, in the opinion of the District Magistrate, or in a Presidency-town the Commissioner of Police, any articles specified in the list are or may be used for the purposes of the unlawful association, he may proceed, subject to the provisions hereafter contained in this section, to order such articles to be forfeited to His Majesty."

My objection here is to the provision about forfeiture. If the immoveable property is not to be forfeited, but is to be handed over and restored to the association when it ceases to be unlawful, then in the same way the articles and moveable property found therein ought to be restored to the association when it becomes a lawful body in the eyes of Government. Here the provision is that some of the property should be forfeited to His Majesty. I congratulate Government on their not being anxious to forfeit all the moveable property to Government. They are forfeiting to Government some of the property and leaving other property without being forfeited, and they are prepared to restore it to the association when it becomes lawful in their eyes. But, further on, there is a provision that any moneys that will be found there or in the account of the unlawful association at a bank or with a merchant will be forfeited to Government and there is no provision of restoration to the association when it becomes lawful in the eyes of Government. So, my contention is that the clause is not a just clause. Government ought not to forfeit the funds of an association which they declare unlawful. Government may keep possession of those funds and prevent the unlawful association from making use of them in the prosecution of their unlawful objects. But, beyond that, Government ought not to go and ought not to forfeit. Government ought to restore it along with the immoveable property which they take possession of. If Government are going to forfeit the funds of the association, then the association, when it becomes lawful, will be deprived of the funds and will not be able to carry on its lawful activities, as funds

[Mr. B. V. Jadhav.]

do not come in a day. This grabbing system of Government ought to be condemned. In forfeiting the funds of the association, Government are the prosecutor, Government are the judge and Government, at the same time, are the executioner. There is no chance to anybody; the unlawful association to which the funds belong cannot come forward and claim them when the order of forfeiture is passed. They are out of Court; their leaders are rotting in jail and there is nobody to represent their claims or do anything for them. If, on the ground of that association being an unlawful one, Government come forward to forfeit their funds and add them to the treasury, they expose themselves to the charge of looting their subjects and looting the people. In the amendment I suggest that the principle of forfeiture should be abandoned and the moveable property should be kept in the custody of Government. I, of course, agree that the funds ought not to be allowed to be used by any person for any unlawful purpose. I, therefore, move that for the words "forfeited to His Majesty" the words "kept in the custody of Government" should be substituted.

**Sardar Sant Singh** (West Punjab: Sikh): Sir, I support this amendment. In supporting it, I wish to remind the Government of the sections of the Penal Code which originally contained sentence of forfeiture of property. These sections were 121, 121A, 123 and probably 124. In those sections, as they were originally framed, the offences mentioned therein were punishable with forfeiture of property as well. During the martial law in 1919 in the Punjab, some high placed persons like Lala Harkishen Lal and others were charged with waging war before Tribunals specially set up under the martial law and were convicted of such offences and sentenced to transportation for life and the forfeiture of their property. Soon after the Government realised their blunder and the Hunter Committee was appointed to investigate into the conditions arising out of martial law. The Hunter Committee's finding resulted in securing the release of all such persons. Then the Government found themselves in an embarrassed situation. The sentence of forfeiture was passed by a Tribunal and still stood there. Ultimately the orders of forfeiture were withdrawn, but this led to an amendment of these sections, and, by section 2 of the Indian Penal Code (Amendment) Act, 1921, the sentence of forfeiture was removed. Taking into consideration that only last year the Government had to go to the Congress to enter into a pact with that body, it is not unlikely that the same thing may have to be repeated in the year 1933. Suppose it so happens, forfeitures of property would create unnecessary complications. Just as in the case of Bardoli a difficulty arose and could not completely be surmounted in order to restore the properties to the original owners, the same embarrassment may fall on the Government again. It is not unlikely the press reports of opening negotiations with Mahatma Gandhi to secure his co-operation in the coming reforms are persistent. If so, the present enactment may cause unforeseen difficulties in the way of securing the compromise. It will be an act of statesmanship to foresee the difficulties and to avoid taking any extreme step which may go to create further difficulties in the restoration of good relations between the Congress and the administration. Therefore, I think it would be quite well if, instead of ordering the forfeiture of the property, the property be kept in the custody of the Government so that if the compromise does include such a term as restoration of

property, it may be very easy for the executive to restore it. Therefore, I will support this amendment.

**The Honourable Mr. H. G. Haig:** Sir, my Honourable friend, Mr.

**4 P.M.** Jadhav, suggested that because we have been, as he would consider, reasonable, in not forfeiting immoveable property, we should, therefore, take precisely the same action with regard to moveable; but, of course, the argument might work the other way: we might, if he wants us to be entirely consistent, forfeit immoveable property as well as moveable. But, on the whole, the view of the Government is that it is reasonable to distinguish between moveable and immoveable property. It is a much more severe and serious matter to forfeit permanently immoveable property than moveable. In the case of these associations, it must be remembered that they exist for an unlawful purpose. My Honourable friend, Sardar Sant Singh, suggested that because we did not in the case of certain criminal offences order the forfeiture of the property of the offender, therefore it is unreasonable that the property of these unlawful associations should be liable to forfeiture. I think it is very easy to draw a distinction between the two cases. In the case of an individual he does not normally devote the whole of his resources to the commission of a particular offence; but these unlawful associations exist for no other purpose than to carry out these unlawful activities and, I submit, that the property which is definitely used for these purposes should be liable to forfeiture, and that the provision is a reasonable one. I do not propose to follow my Honourable friend, Sardar Sant Singh, into his suggestions that it might be embarrassing for Government if they enter into another pact with the Congress and certain arrangements had to be made about the return of this forfeited property, because it has been repeatedly asserted on the floor of this House as well as in the House of Commons that the Government have not the slightest intention of entering into another pact with the Congress. Sir, I oppose.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in clause 13 of the Bill, in sub-section (2) of the proposed section 17B, for the words 'forfeited to His Majesty' the words 'kept in the custody of Government' be substituted."

The Assembly divided:

AYES—35.

Abdur Rahim, Sir.  
Aggarwal, Mr. Jagan Nath.  
Azhar Ali, Mr. Muhammad.  
Bhuput Sing, Mr.  
Chetty, Mr. R. K. Shanmukham.  
Dutt, Mr. Amar Nath.  
Gour, Sir Hari Singh.  
Gunjal, Mr. N. R.  
Harbans Singh Brar, Sirdar.  
Isra, Chaudhri.  
Jadhav, Mr. B. V.  
Jog, Mr. S. G.  
Lalchand Navalrai, Mr.  
Misra, Mr. B. N.  
Mitra, Mr. S. C.  
Murtuza Saheb Bahadur, Maulvi  
Sayyid.  
Pandian, Mr. B. Rajaram.

Parma Nand, Bhai.  
Patil, Rao Bahadur B. L.  
Phookun, Mr. T. R.  
Puri, Mr. Goswami M. R.  
Ranga Iyer, Mr. C. S.  
Reddi, Mr. P. G.  
Reddi, Mr. T. N. Ramakrishna.  
Sadiq Hasan, Shaikh.  
Sant Singh, Sardar.  
Sarda, Diwan Bahadur Harbilas.  
Sen, Mr. S. C.  
Sen, Pandit Satyendra Nath.  
Singh, Kumar Gupteshwar Prasad.  
Sitaramaraju, Mr. B.  
Sohan Singh, Sirdar.  
Thampan, Mr. K. P.  
Uppi Saheb Bahadur, Mr.  
Ziauddin Ahmad, Dr.

## NOES—51.

Abdul Hye, Khan Bahadur	Abul	Macqueen, Mr. P.	
Hasnat Muhammad.		Meek, Dr. D. B.	
Acott, Mr. A. S. V.		Metcalf, Mr. H. A. F.	
Allah Baksh, Khan	Tiwana, Khan	Mitter, The Honourable	Sir
Bahadur Mahtab		Brojendra,	
Amir Hussain, Khan Bahadur Saiyid.		Moore, Mr. Arthur.	
Anklesaria, Mr. N. N.		Morgan, Mr. G.	
Anwar-ul-Azim, Mr. Muhammad.		Mukherjee, Rai Bahadur S. C.	
Bajpai, Mr. G. S.		Nayudu, Rao Bahadur B. V. Sri Hari	
Bhoré, The Honourable Sir Joseph.		Rao.	
Bower, Mr. E. H. M.		Nihal Singh, Sardar.	
Burt, Mr. B. C.		Rafuddin Ahmad, Khan Bahadur	
Dalal, Dr. R. D.		Maulvi.	
DeSouza, Dr. F. X.		Rajah, Rao Bahadur M. C.	
Dunn, Mr. C. W.		Rastogi, Mr. Badri Lal.	
Dutt, Mr. G. S.		Rau, Mr. P. R.	
Fox, Mr. H. B.		Ryan, Mr. T.	
Graham, Sir Lancelot.		Sarma, Mr. R. S.	
Greenfield, Mr. H. C.		Schuster, The Honourable Sir George.	
Gwynne, Mr. C. W.		Scott, Mr. J. Ramsay.	
Haig, The Honourable Mr. H. G.		Sher Muhammad Khan Gakhar,	
Hezlett, Mr. J.		Captain.	
Hudson, Sir Leslie.		Singh, Mr. Pradyumna Prashad.	
Ishwarsingji, Nawab Naharsingji.		Smith, Mr. R.	
Ismail Ali Khan, Kunwar Hajee.		Sorley, Mr. H. T.	
James, Mr. F. E.		Tottenham, Mr. G. R. F.	
Jawahar Singh, Sardar Bahadur		Yakub, Sir Muhammad.	
Sardar.		Yamin Khan, Mr. Muhammad.	
Lal Chand, Hony. Captain Rao		Zulfiqar Ali Khan, Sir.	
Bahadur Chandhri.			

The motion was negatived.

**Mr. B. V. Jadhav:** Sir, I move:

"That in clause 13 of the Bill, in sub-section (4) of the proposed section 17B, for the word 'forfeit' the words 'kept in custody of Government' be substituted."

**Mr. Amar Nath Dutt:** Sir, if an instance were needed of the law of evolution in law, I think here is one, and let us hand it over to future generations to come as a precious piece of legacy for enlightenment as to how the law progresses in lands which are under foreign rule. Here you not only punish parents and guardians for the sins of their children or wards, but you also take away their property and have forfeit it. I knew that law was intended for the protection of the liberty as well as the person and property of human beings. Here, we find that this law is intended for the destruction of the liberty as well as security of person and property of the people. We are placed absolutely at the mercy of those very estimable gentlemen who appear in one garb in decent society and, in another garb, elsewhere when they happen to be heads of districts. We have heard very eminent members of that service speaking with a sense of responsibility and they assume to call themselves public servants, and we have been asked to legalise all sorts of illegal acts for their protection. Now, we have to give our property to them and our properties are at their mercy. The authority that has been given to these high class officers, called District Magistrates or Commissioners of Police, cannot certainly be found in any other part of the world except in this unfortunate country. I can well understand the introduction of martial law, but I do not understand such oppression and tyranny in the name of law, and to ask the representatives of the people here to approve of laws like these, and this is

something which they ought not to do. Sir, they have been doing all these things. They have been destroying property, they have been taking property, they are doing things which I cannot describe without a sense of horror, and, if necessary, they will be described later on. When they are doing all these things, there is no necessity for enacting sub-section (4) of the proposed section 17B. That being so, I ask, in the name of decency, not to press for the word "forfeit". What my Honourable friend, Mr. Jadhav, wants, is that it should be merely detained in your possession, though I do not know how far that detention by the Government officers will be of any real benefit. I submit that we should not be asked to be a party to such a barbarous legislation as this. I support Mr. Jadhav.

**The Honourable Mr. H. G. Haig:** The point raised by this amendment is precisely the same as that which was discussed and decided on the previous amendment. I, therefore, do not propose to repeat the arguments that I advanced on the previous amendment. With reference to what my Honourable friend, Mr. Amar Nath Dutt, has said, I should just like to remind him that the property which is liable to forfeiture is not, as he suggests, the property of any individual, but it is property which is used for the purposes of an unlawful association.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question which I have to put is:

"That in clause 13 of the Bill, in sub-section (4) of the proposed section 17B, for the word 'forfeit' the words 'kept in custody of Government' be substituted."

The motion was negatived.

**Mr. S. C. Sen:** Sir, I move:

"That in clause 13 of the Bill, in sub-section (7) of the proposed section 17B, the words 'and the decision of the District Judge or Chief Judge of the Small Cause Court, as the case may be, shall be final' be omitted."

My reason for saying so is this. When the Bill came before the Select Committee, there was only the clause on forfeiture by executive authority without any judicial appeal. After considerable discussion, the Government consented to refer the matter to the District Judge or the Chief Judge of the Small Cause Court for adjudication. But, at the same time, they insisted that the decision of the District Judge or the Chief Judge of the Small Cause Court should be final. Why, I do not know. Probably they were following here the procedure laid down in the Civil Procedure Code for the investigation of claims, under which the decision of the Court is final. But they forgot that that section also provided that a suit might be filed by the person aggrieved for a declaration of his right. If that is given here, there is no occasion to interfere with the sub-section. But that provision has not been made here. I do not see why the decision of the District Judge should be final. Government seem to be very much afraid of Civil Courts and, therefore, they do not want any appeal to be made to the High Court or any other Court. In these circumstances, I submit my amendment for the acceptance of the House.

**Mr. Jagan Nath Aggarwal** (Jullundur Division: Non-Muhammadan): This clause 17B has been amended in several particulars, but I am afraid that the amendments have only taken the matter half way through. The

[Mr. Jagan Nath Aggarwal.]

House will be pleased to notice that against an executive order of forfeiture a certain judicial remedy has been provided. If moveable property is found in a certain place which is notified and which is likely to be used for the purposes of an unlawful association, then a temporary order of forfeiture is made. This is subject to a reference to judicial authorities—the District Judge in the mufassil and the Chief Judge of the Small Cause Court in the Presidency-towns. So far, well and good. From the executive order the matter is taken to a judicial tribunal. But what do we find thereafter? We find in sub-section (7), the procedure which is adopted is very laconically described as the procedure for the investigation of claims so far as that can be made to apply. The Honourable the Law Member and those responsible for the provisions know very well that when a matter goes to the judicial authorities as a claim petition, the position is that when a claim has been preferred, it is summarily enquired into, but whatever the result is, it is subject to the result of an ordinary suit. I would like to know whether the same procedure as the Civil Procedure Code authorises shall be adopted for the purpose, because the words used in the claim procedure section of the Civil Procedure Code are that the decision shall be final, subject to the result of an ordinary suit as provided by that very section. Sir, we do not find any such word. Now that we are giving a right of recourse to the Civil Court and we are adopting the procedure of the claim investigation section, we should have the whole of that machinery adopted, the point being that no man shall suffer in property without having recourse to the highest tribunal with a right of appeal and second appeal if a law question is involved. On an ordinary petty case of Rs. 5,000 or so, the decision of the District Judge or the Chief Judge of the Small Cause Court is liable to question before an appellate Court, but in a matter where a lakh of rupees may be found in a place—it may be the amount belonging to the association may run to several lakhs—why is it that the claim procedure is allowed so far as one stage of investigation is concerned, but the District Judge or the Chief Judge of the Small Cause Court is clothed with absolute authority and his verdict is not liable to be challenged before any superior Court? This is a matter in which, I submit, the amendment is very logical. I do not know whether logic has much scope for acceptance in the discussion of this measure, but the two-fold remedy which is generally availed of in a matter of this kind, either the remedy of a regular suit, or the remedy of an appeal, should be adopted so far as this provision is concerned. It may be declared that the decision of the District Judge shall be tantamount to a decree, or it may be declared, subject to the result of a regular suit. I commend this amendment for the acceptance of the House.

**Mr. S. G. Jog:** The remedy provided by this clause, in cases of forfeiture of property, is a drastic one. When making a provision for such a drastic change it is absolutely necessary that facilities should be given to the aggrieved party. I must admit that when the original Bill was introduced, there was absolutely no provision even of this sort and they wanted the decision of the executive authority to be final. As the matter was pressed to a great extent in the Select Committee, it is no doubt true that the remedy of making an investigation before a District Judge was given, but, at the same time, we find that the decision of the District Judge shall be final. I think this has no meaning. Whether the District Judge decides the case or the Small Cause Court Judge decides the case; the

High Court has got the power of supervision and revision. I submit that the words "shall be final" should be omitted and the regular Courts of appeal should be open to the aggrieved parties. That will inspire more confidence. There will be many cases of forfeiture and people will be afraid if these cases are not well thrashed out in the civil Courts and the feeling of diffidence will remain. For these reasons, I submit, that the amendment should be allowed.

**The Honourable Sir Brojendra Mitter:** I oppose the amendment. It will be within the recollection of Honourable Members that in the Bill final adjudication was left in the hands of the executive. They had the last word to say whether a particular moveable property was used for the purpose of an unlawful association or not. It was pressed upon us that since it affected rights of property, there should be some sort of judicial adjudication and it was for that purpose that the change was made in the Select Committee. Then the question arose that if a judicial authority was, upon a claim made, to adjudicate upon this issue whether a property was used for the purpose of an unlawful association or not, what should be the procedure. We cast about to find a procedure. We found that in the Civil Procedure Code there was a procedure for claims in matters between individuals with regard to property. We adopted that procedure. It should, however, be realised that this is not a civil proceeding at all. This is not a dispute for property between two individuals, and all the rights which are given to civil disputants cannot be claimed in a matter like this which is criminal in its nature. I am fully aware that under the Civil Procedure Code a suit may be instituted by the unsuccessful party to a claim proceeding. Title to property is in question there and hence the Legislature has given full rights of appeal to the parties interested; but in this case there is no question of title at all. Why should there be an appeal? By using the words "the decision shall be final", the intention and the effect are that appeals are barred. These words are not new. They occur in many Statutes and the meaning is quite clear. Mr. Jog says, these words have no meaning, because the High Courts can revise. If the High Court has the power of revision, it will revise, but there shall be no appeal. That there should not be an appeal would be manifest from the nature of the case. If Honourable Members will look at 17B, (2), they will find that the articles which are liable to be forfeited are those which may be used for the purpose of an unlawful association. It is a very simple issue and, in spite of the District Magistrate deciding this issue, we have conceded to this extent that a judicial officer, namely, a District Judge or the Chief Judge of a Small Cause Court should finally adjudicate upon it. When an issue is so simple, why should there be an appeal—for whose benefit, for the benefit of the legal profession? I oppose the amendment.

**Rao Bahadur B. L. Patil:** I have very little to say in supporting the amendment. The Honourable the Law Member said that these proceedings were in the nature of criminal cases. I beg to differ from him: The question is whether a particular property belongs to A or B. That cannot be called a criminal proceeding and the Court will have to decide whether the property really belongs to the unlawful association or to another person. In such cases, it is but right and proper that an individual putting forth his claim ought to be given an opportunity to take these matters to the highest appellate Courts. For these reasons, I support the amendment.



**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is :

"That in clause 13 of the Bill, in sub-section (7) of the proposed section 17B, the words 'and the decision of the District Judge or Chief Judge of the Small Cause Court, as the case may be, shall be final' be omitted."

The motion was negatived.

**Mr. S. C. Sen:** Sir, I move :

"That in clause 13 of the Bill, at the beginning of the proposed section 17C, the words and figures 'Subject to the proviso to sub-section (2) of section 17A' be added."

My reason for this is that some reasonable time shall be given for the parties concerned to vacate the place. That is all I have to say.

**The Honourable Sir Brojendra Mitter:** I really do not understand the meaning of this amendment. The proviso to sub-section (2) of 17A says :

\* "Provided that where such place contains any apartment occupied by women or children, reasonable time and facilities shall be afforded for their withdrawal with the least possible inconvenience."

Now, how does that apply to a person who is not in the premises at all but who is entering those premises? What reasonable facilities should be given to him for withdrawing? There is no question of withdrawing? So, to that portion of 17C the proviso would be inapplicable. In the case where a person remains in a notified place without the permission of the District Magistrate, the proviso may have application. But, Sir, here, again, what happens? In the first place, the District Magistrate comes and takes possession of the house, and he gives reasonable facilities to women and children to withdraw in good time. Then everyone is presumed to have vacated it. But if anyone conceals himself in the house and remains in the house, what reasonable facilities are expected to be given to him? I do not understand this amendment and I oppose it.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is :

"That in clause 13 of the Bill, at the beginning of the proposed section 17C, the words and figures 'Subject to the proviso to sub-section (2) of section 17A' be added."

The motion was negatived.

**Mr. B. V. Jadhav:** Sir, I move :

"That in clause 13 of the Bill, in sub-section (1) of the proposed section 17E, for the words 'forfeited to His Majesty' the words 'kept under the control of Government' be substituted."

The proposed section 17E says:-

"Where the Local Government is satisfied, after such inquiry as it may think fit, that any monies, securities or credits are being used or are intended to be used for the purposes of an unlawful association, the Local Government may, by order in writing, declare such monies, securities or credits to be forfeited to His Majesty."

I claim, Sir, that this provision ought to be modified and the provision for forfeiture should be taken away. An "unlawful association" was not an unlawful association before it was declared to be unlawful, and the

funds collected by that association were lawfully collected. Now this unlawful association is not likely to remain unlawful for ever; and when the declaration about unlawfulness is taken away, the immoveable property belonging to that association is going to be restored to that association. I, therefore, claim that the funds of the unlawful association should not be forfeited, but should be kept under the control of Government so that they should not be used for the furtherance of unlawful objects, but that they should be available for being returned to the association when it is declared once again to be lawful, and, therefore, I move my amendment.

**The Honourable Mr. H. G. Haig:** Sir, similar considerations arise to those which we have already discussed in connection with moveable property. In regard to funds, Sir, it has been said that these funds are the life-blood of the organised opposition to Government. The power of forfeiture of such funds has been found to act as a very powerful deterrent. It is believed to deter people from subscribing to these unlawful movements. Now, that deterrent effect would be very much minimised, and even perhaps destroyed, if the power of Government stopped short at merely holding these funds for some months or a year and if, at the end of that time, the funds were to be restored to the association. It is in our opinion, Sir, most essential that Government should have the power, subject to the safeguards that we have included in this clause, to forfeit the funds.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in clause 13 of the Bill, in sub-section (1) of the proposed section 17E, for the words 'forfeited to His Majesty' the words 'kept under the control of Government' be substituted."

The motion was negatived.

**Mr. B. V. Jadhav:** Sir, I move:

"That in clause 13 of the Bill, in sub-section (3) of the proposed section 17E, for the words 'of forfeiture', wherever they occur, the words 'for keeping under the control of Government' be substituted."

**The Honourable Mr. H. G. Haig:** Sir, a point precisely the same as the one which arose on the previous amendment arises here, and I oppose the amendment.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in clause 13 of the Bill, in sub-section (3) of the proposed section 17E, for the words 'of forfeiture', wherever they occur, the words 'for keeping under the control of Government' be substituted."

The motion was negatived.

**Mr. S. C. Sen:** Sir, I rise to move the amendment that stands in my name, namely:

"That in clause 13 of the Bill, in sub-section (1) of the proposed section 17E, the words 'and the decision of the District Judge or Chief Judge of the Small Cause Court, as the case may be, shall be final' be omitted."

Sir, on the last occasion I spoke about a similar matter in connection with moveable property. This is in connection with monies, etc. The answer to the point which I raised of the Honourable the Law Member was that

[Mr. S. O. Sen.]

it was a case of forfeiture and, therefore, the provisions of the Civil Procedure Code regarding a title-suit would not apply. I do not know whether the Honourable the Law Member will advance the same argument in this case also. Sir, under sub-clause (3), what will be the issue before the District Judge or the Chief Judge of the Small Cause Court? "To establish that the monies, securities or credits are not liable to forfeiture". That means that in this case the question is whether the Magistrate or the Local Government have sufficient material before them to justify their action and it will, therefore, be necessary to consider whether the monies, etc., can be forfeited or not. This may involve the question whether the money belongs to me or to the unlawful association, and whether it was or could be used for such association. That is purely a question of title, as is known in the mufassil Courts. In the High Court there is no such distinction between these two matters. I would here also refer to sub-clause (5):

"Where the Local Government has reason to believe that any person has custody of any monies, securities or credits which are being used or are intended to be used for the purposes of an unlawful association, the Local Government may, by order in writing, prohibit such person from paying," etc.

and it then goes on to say that the man will be liable to pay. The man in whose possession the money is may say that it does not belong to the association but belongs to him, that it was never used or intended to be used for such association. Therefore, the Local Government, standing in the place of the association, has to prove the claim or I have to prove the claim as against the association that the money belongs to me and not to the association. Under these circumstances, it clearly comes within the purview of a title case and, in such a case, there is always an appeal from the lower Court. Sir, I move the amendment.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Amendment moved:

"That in clause 13 of the Bill, in sub-section (4) of the proposed section 17E, the words 'and the decision of the District Judge or Chief Judge of the Small Cause Court, as the case may be, shall be final' be omitted."

**Sirdar Harbans Singh Brar** (East Punjab: Sikh): Sir, I rise to support the amendment. In this case it may naturally happen that the money in the custody, say, of the treasurer, which the Government will allege to belong to the unlawful association, may be his own property as an individual. In that case the question involved will be that he should prove his title to it. And when he has to prove his title, the claims procedure will not serve the purpose. The money may run into lakhs. In ordinary cases, when the amount will be over 5,000 rupees, a person can go to the High Court in second appeal but in the present case it may run into lakhs. I do not know why the Government are so much afraid of the civil Courts or the civil authority and why do they fear that the High Courts will not do justice to the cases if an ordinary procedure is resorted to by the person making the claim. In the claim procedure, no doubt the District Judge is the final authority, but it gives the right to the claimant to file a regular suit. I am personally not convinced what fear the Government entertain in allowing the individual concerned to establish his title to the property which the Government desire to forfeit by a measure of an extraordinary nature and by extraordinary means. I think the amendment is very reasonable and Government should accept it.

**The Honourable Sir Brojendra Mitter:** Sir, I dispute Mr. Sen's proposition that any question of title is involved in these proceedings. In 17E, sub-clause (3), what is to be established is that the monies, securities or credits or any of them are not liable to forfeiture. Now, that takes us back to sub-clause (1)—what are the monies, etc., which are liable to forfeiture? They are monies, securities or credits which are being used or are intended to be used for purposes of an unlawful association. These are the monies and securities and credits which are liable to forfeiture irrespective of the question of title. The money may belong to A, B, or C; that does not matter. There is no question of conflicting titles there; it is the user of the money which is the criterion and not its ownership. In sub-clause (5), it is not a case of forfeiture at all; it is a case of injunction. When can an injunction issue? When the monies, securities or credits are being used or are intended to be used for purposes of an unlawful association. There, again, I say that it is immaterial who the owner of these monies is. It is only the purpose for which the monies are used or intended to be used that counts. Therefore, there is no question of adjudication of title as in a claim proceeding under the Civil Procedure Code and there is no occasion for an appeal.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in clause 13 of the Bill, in sub-section (4) of the proposed section 17E, the words 'and the decision of the District Judge or Chief Judge of the Small Cause Court, as the case may be, shall be final' be omitted."

The motion was negatived.

**Mr. S. C. Mitra:** Sir, I move.

"That in clause 13 of the Bill, the proposed section 17F be omitted."

Sir, this section 17F is designed to bar all civil and criminal suits in the case of the forfeiture. I will read out the section:

"Every report of the taking possession of property and every declaration of forfeiture made, or purporting to be made under this Act shall, as against all persons, be conclusive proof that the property specified therein has been taken possession of by Government or has been forfeited, as the case may be, and save as provided in sections 17B and 17E, no proceeding purporting to be taken under section 17A, 17B, 17C, 17D or 17E, shall be called in question by any Court, and no civil or criminal proceeding shall be instituted against any person for anything in good faith done or intended to be done under the said sections or against Government or any person acting on behalf of or by authority of Government for any loss or damage caused to or in respect of any property whereof possession has been taken by Government under this Act."

Sir, it seems that Government are gradually becoming afraid even of their own law Courts. Now, after forfeiture, it cannot be said that the property or money is in possession of the offender. Government have already taken possession of it. Then no mischief could be committed with that property or money or securities. When the object of the Government has been achieved, why should people be debarred from going to the Courts of justice to establish their right or to prove if anything illegal has been done by the officers of Government in securing the forfeiture?

[Mr. S. C. Mitra.]

I think Government are no longer anxious here in India for the rule of law of which they are so proud in England. This piece of legislation makes the position of the ordinary law worse than even that of martial law. In the case of the martial law, the ordinary law is suspended for the time being and, before a Bill for immunity is brought in, the officers are very much afraid that their conduct may be criticised. But here it seems that the Bill of immunity is preceding the martial law. The result will be that Government officers will become simply reckless, because they know that a provision has already been made that no suit, either civil or criminal, can ever be brought against them. If Government think that the times are very bad, let them declare martial law, and suspend all civil law for the time being. But, in the name of law, to have such drastic provisions barring the jurisdiction of all Courts, civil and criminal, even after the forfeiture of property, is, I think, the very limit. Sir, the Leader of the House, whose great knowledge of legal affairs is well known, says today that provisions for appeals are for the benefit of lawyers only. If this is the deliberate opinion of a gentleman who is the Law Member of the Government of India, I think it is no use my arguing the point that even when no mischief can be committed, when the property is already in possession of Government, people should have some right, if they are aggrieved, to go to the British Courts of justice. Sir, it is well known that the judiciary here is to a great extent under executive influence; but even then Government are so afraid, it seems, that in every new piece of legislation in some way or other they are anxious not only to curb the powers of the High Courts, but even of the district and Presidency Courts. So, I move that this sub-clause barring criminal and civil proceedings should be deleted.

**Raja Bahadur G. Krishnamachariar:** Sir, I support this amendment. I do so with regard to those provisions of the clause which bar the jurisdiction of the civil Courts. There was one leading case upon this matter from Rangoon in which the Privy Council passed very scathing remarks about this removal of the jurisdiction of the civil Courts from acts done by persons who pretended to show that it was done in good faith, but which as a fact, was not so done, or at least could be proved to be such. But it is a colossal and superhuman task to do so in proceedings specially instituted for that purpose. Sir, there is a book,—I do not know if it had a chance to fall into the hands of Honourable Members of Government,—written by the present Lord Chief Justice of England, named “The New Despotism”. That book deals with two things: first, in allowing a Government department to frame subsidiary rules which shall form part of the principal Statute and the next and more important item of despotism which the Lord Chief Justice of England describes is the barring of the jurisdiction of the civil Courts. Unfortunately, I have not got the book with me here, but he says,—I believe I am correctly reporting him,—that the officers of the executive department are so sure of the position that they have taken in connection with the various administrative acts which have been entrusted to them that they bar all jurisdiction of the civil Courts; and knowing that the civil Courts cannot take cognizance of them, they have got a *carte blanche* and they go on acting just as they like. I do not say they are so wicked

as that; I do not say that they have got a double dose of the original sin that they want to do that sort of thing. But, Sir, power is so tempting, no matter in whose hands it is kept, that it leads always to the risk and temptation of being over-exercised. And once you begin to over-exercise it, it is so sweet that no one wants to abandon the position, much less does he want to make himself accountable for anything.

Sir, we know that there are certain acts recently passed under which the jurisdiction of the civil Courts has been taken away. The  
 5 P.M. most important Act that now comes to my mind is the Income-tax Act. In the Income-tax Act, you will find provision after provision each one of which would suffice to create trouble and annoyance to the assessee, if by chance a Government official thinks the man is liable to pay income-tax. These men do it. They have absolutely no ground for taking the action that they do take and they are not called to account by anybody, and they are not bound to give any reasons. For instance, when a man submits his return of income, the Income-tax Officer immediately sends a notice wanting to test the correctness of his accounts. He cannot be asked on what grounds he wants to do it. And yet, even if I can show that the act was not done in good faith, the civil Court is deprived of its jurisdiction. The same thing will happen with reference to this piece of legislation; and, this being a political offence, and at a time when feelings run high, certain classes of public servants may still be under the impression that a subject nation has no right to politics. I do not know if my Honourable friends in this House remember that a very distinguished District Judge of the Madras Presidency made this pronouncement that a subject nation has no politics. Well, Sir, being in this political field and in the midst of all this trouble, it is quite possible that there will be a class of public servants who think that a subject nation has absolutely no business to dabble in politics. And once they get into that mentality, you do not know the excesses to which they will go. And what is the remedy after all? As my Honourable friend pointed out, even in martial law there is such a thing as an Indemnity Bill which is brought forward later when a man is expected to account for what he did. What is the remedy for all the excesses which may be,—I do not say will be,—committed under cover of this clause? Sir, I know there is one clause says, "intended to be done in good faith". Sir, there is a saying,—I hope I am right in quoting it,—that the road to a certain place is paved with good intentions. You get an official doing these acts with a good intention. The result is ruinous to me, but I have absolutely no remedy. The only place which was open to me till now is also being banged against me, against the fundamental principle of British jurisprudence. What is it that I can do after this? It is a most dangerous thing to do. It may please Government to have recourse to this sort of remedy when, in a sort of half-panicky state of mind, they think they require these remedies when really they do not require them. But it is a dangerous principle to introduce in any piece of legislation and I ask that for the sake of peace in the country, Government should delete this provision which takes away the jurisdiction of the Courts and leave us to fight the matter out if we think that we have been penalised for no reason whatever.

**The Honourable Sir Brojendra Mitter:** Sir, the proposed section 17E has two parts. The first part deals with a rule of evidence. It says that every report of taking possession of property and every declaration of

[Sir Brojendra Mitter.]

forfeiture made shall be conclusive proof that the property specified therein has been taken possession of or has been forfeited as the case may be. It is a rule of evidence. This is necessary in order to obviate the necessity of calling a number of witnesses to prove the simple fact that on a particular day the District Magistrate went to a house and took possession of it and the properties therein or that some properties had been forfeited. In order to avoid that that this simple procedure has been adopted. That is so far as proof is concerned, and I have heard no criticism of this portion of the clause. The next portion is the indemnity portion, indemnity given to officers acting under this section in good faith. If an officer is not acting in good faith, there is no bar to anybody going to any Court. Any one who can prove before a judicial officer that a particular item of property was not being used or not intended to be used for the purpose of the unlawful association, will get back that property. An elaborate procedure has been laid down for establishing *bona fide* claims. After those claims are disposed of, what remains? What is forfeited is what is found to be used for the unlawful purpose or intended to be used for such purpose. In this proceeding, when the executive officers have to act under the scrutiny of a judicial officer, there cannot be any objection to give these executive officers an indemnity against harassing proceedings against them. It is only to save the executive officers from harassment that this indemnity has been given. Appeals are not desirable in these cases. I repeat that too many appeals are a curse in our judicial system. It does not conduce to justice. It gives a premium, an unfair advantage to the man with the long purse; he can always wear down his opponent by means of a multiplicity of appeals. I was attacked for saying this. I repeat, that in my judgment we have got too many appeals in this country which do not conduce to justice; they give an unfair advantage to the richer man. (Official Cheers and Nationalist Party Laughter.) The Raja Bahadur asks: "What is the remedy?". The remedy is the abandonment of the civil disobedience movement. (Official Cheers.) Sir, I oppose the amendment.

**Mr. Jagan Nath Aggarwal** (Jullundur Division: Non-Muhammadian): I am afraid, Sir, I cannot let go this opportunity to challenge two very strange statements made by the Honourable the Law Member. One is that there are too many appeals in this country. I would like to know what has the Law Department of the Government of India been doing that they have not brought forward a Bill to abolish the unnecessary right of appeal. It is only in this Ordinance Bill that they have thought of these unnecessary appeals when the liberties of the citizen suffer. When the ordinary litigants are out to fight and when they spend a good deal of money, the Law Member, who was till recently in the profession and making a bit of money, never made any protest. Now, after coming into a position in which he could remedy the state of the law and amend it, is there any occasion, barring this one of the Ordinance Bill, when he sought to put an end to this state of things for the sake of the long suffering people in this country, by abolishing the right of appeal? I was surprised that the Government Benches behind my Honourable friend raised cheers on the question that the right of appeal had been abused in this country. I should very much like to know what they have done in the matter. It is very easy to indulge in generalities, but if my learned friend had said that he would extend his principle and take away the right

of appeal in general, and not merely as proposed in this Bill, we would bow to him. He is a distinguished member of the legal profession and he is supposed to know the law. But to indulge in vague generalities at the expense of the legal profession or the weakness of the law is certainly neither sport nor anything else. I would, in this connection, beg leave to point out that the right of appeal is not merely for the benefit of the legal profession: that was a statement which I expected that the Honourable the Law Member would withdraw, but he has not taken the slightest notice of it; I take strong objection to the allegation that the right of appeal is only for the benefit of the legal profession. It is not for the legal profession; the right of appeal is for the litigant. The right of appeal is for the aggrieved party; the right of appeal is the right which gives a sense of security to the subject and adds to the respect for law (Opposition Cheers) and which provides a check on the vagaries of a judge. There are too many in this land who make mistakes and judges are no exception to it; and, if my learned friend thinks it is only for the legal profession, I can tell him, it is not so. Is it for my learned friend to turn round and say that the right of appeal is for the lawyer only?

**The Honourable Sir Brojendra Mitter:** I did not say that. I said it is for the man with the long purse.

**Mr. Jagan Nath Aggarwal:** That was said now: in the debate on a previous amendment, if the Honourable Member will pardon me for saying so, he said that the right of appeal was for the benefit of the legal profession.

**The Honourable Sir Brojendra Mitter:** No, Sir. What I did say was this: this right of appeal—for whose benefit? For the benefit of the legal profession? That was the query I made.

**Mr. Jagan Nath Aggarwal:** I am glad if the Honourable gentleman did not mean that. The reason why we objected to this clause was obviously this. The Honourable the Law Member himself pointed out two things in the clause: the first was a rule of evidence, as he said. But the words are: "It shall be conclusive evidence". That is where the grievance is. Conclusive evidence under the Evidence Act means that that thing shall not be allowed to be contradicted. It means that the thing is non-rebuttable and the man is not allowed to rebut the presumption. In all fairness, the man has a right to say: "You call it forfeiture; no forfeiture took place, and it should be a rebuttable presumption". If you had merely said that the Court shall presume forfeiture took place, the object would be served; but to make it a conclusive presumption is wholly wrong. With regard to the next part, it has been pointed out over and over again that you have given indemnity in advance. Give it in guarded words; give it for anything which is proved to be done *bonâ fide*, but do not give it, as you have given it, to every act done under colour of the Bill.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in clause 13 of the Bill, the proposed section 17-F be omitted."

The motion was negatived.



**Mr. S. C. Sen:** Sir, I move the amendment standing in my name . . .

**Some Honourable Members:** Do not move it. .

**Mr. S. C. Sen:** . . . namely :

"That in clause 13 of the Bill, in the proposed section 17-F, all the words beginning with the words 'Every Report of' and ending with the words 'as the case may be, and' be omitted."

We have heard the Law Member saying that these are very simple matters; this is a matter of evidence only. Is that so? That is very simple. The matter is very simple; and for his edification I may refer to a case which has already been cited twice by him and I may refer to the same judgment which he quoted here where this particular provision was considered, and that is the *Comrade* case, Muhammad Ali's case. I need not read the whole thing; but, as you are aware, in the Press Act, 1910, similar words occur. The words are that a declaration of forfeiture shall be conclusive evidence of that fact. That Act provided for certain safeguards, one of the safeguards being that before you call upon a particular newspaper editor to show cause why his money should not be forfeited, a notice giving details of the offence should be given. That was considered to be a safeguard by the then Law Member, the Honourable Mr. Sinha (afterwards Lord Sinha) when he introduced the Press Act in 1910. That was considered to be a safeguard by the judges in this case, but, in the case, that safeguard was not acted upon, and this is what the Judge says:

"The notification, therefore, appears to me to be defective in a material particular, and, but for section 22 of the Act, it would, in my opinion, be our duty, to hold that there had been no legal forfeiture."

Therefore, the question is not merely a question of evidence, as has been held by Sir Lawrence Jenkins in this case, but it goes against the whole case. He said that if there had not been this section 22 which contained the provision about the forfeiture being conclusive evidence, he would have dismissed the case, but he could not. Why? Because, he says:

"That section, however, provides that every declaration purporting to be made under the Act shall, as against all persons, be conclusive evidence that the forfeiture therein referred to has taken place."

The wording is exactly the same here. The learned Judge goes on to say:

"Though I hold that the notification does not comply with the provisions of the Act, still, we are, in my opinion, barred from questioning the legality of the forfeiture it purports to declare."

That is the effect of this clause, and not merely it bars evidence. It gives the power to legalise and not to question the vagaries of the lower officials. If the District Magistrate does not proceed in the manner provided in the section, if he does not follow the procedure as described in the section, if the Local Government do not follow the procedure laid down in the section, still, as soon as they make an order for forfeiture, I am debarred from questioning any of their acts where the provisions of the Act, have not been complied with and, therefore, my point is that this portion should be deleted. Why should the Government be in a better position than ordinary litigants?

**The Honourable Sir Brojendra Mitter:** We are not dealing with ordinary litigants in proposing this measure. We are dealing with an unlawful association, and we are dealing with property which is used or which may be used for purposes of that unlawful association. As regards the conclusive nature of the proof, it is undoubtedly true that when the report or declaration of forfeiture purporting to be made under this Act is made, it shall be conclusive proof, that property which is specified therein has been taken possession of by Government or has been forfeited, as the case may be. A great danger is apprehended by Mr. Sen, and what is that danger? A District Magistrate takes possession of a house where an unlawful association was carrying on its nefarious work, he takes possession of the moveable property there and makes a report to Government. Suppose the report is defective. What great harm is caused thereby to arouse the ire of Mr. Sen. Supposing the date on the order of forfeiture which the Government make is wrong or there is some error here or there. What great harm is caused? Sir, we have interposed a judicial proceeding. I could understand that if an ordinary citizen's rights were affected, then even a slight departure from the procedure laid down should be provided for. But, in this case, we are dealing with a particularly obnoxious movement for which this drastic measure has been proposed. It is not the ordinary law of the land; it is not going to be a permanent law of the land; it is a special Act, for a particular purpose and for a short period, and, therefore, whatever the consequences of this conclusive proof may be, the danger is not real. Sir, I oppose the amendment.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in clause 13 of the Bill, in the proposed section 17-F, all the words beginning with the words 'Every Report of' and ending with the words 'as the case may be, and' be omitted."

The motion was negatived.

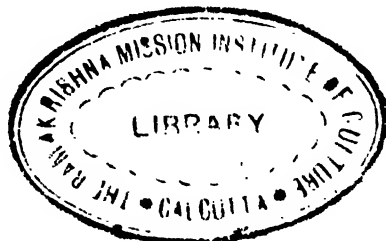
**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That clause 13 do stand part of the Bill."

The motion was adopted.

Clause 13 was added to the Bill.

The Assembly then adjourned till Eleven of the Clock on Friday, the 2nd December, 1932.









## LEGISLATIVE ASSEMBLY.

*Friday, 2nd December, 1932.*

The Assembly met in the Assembly Chamber of the Council House at Eleven of the Clock, Mr. President (The Honourable Sir Ibrahim Rahimtoola) in the Chair.

### STATEMENT OF BUSINESS.

**The Honourable Sir Brojendra Mitter** (Leader of the House): With your permission, Sir, I desire to make a statement as to the probable future course of Government business. It is our intention, Sir, to resume on Monday, the 5th December, discussion of the Ottawa Resolution and that intention is, I believe, in accordance with the wishes of the House generally. That being so, Sir, it is in our opinion of the utmost importance that the proceedings on the Criminal Law Bill on which the House is at present engaged should be concluded this week. For that purpose, Sir, if those proceedings are not concluded today, we shall request you, when you adjourn the House this evening, to direct that it shall meet again at 11 o'clock tomorrow morning.

Our programme for the Ottawa business is to conclude the discussion of the Resolution and thereafter, if the Resolution is passed, forthwith to introduce the Bill, which has already been published in the Gazette and circulated to Members, and to move that it be referred to Select Committee. It is hoped that this motion will be passed in sufficient time to allow of a direction being inserted in it to the effect that the report should be presented on Monday, the 12th December. We trust, Sir, that you will make a direction that, in addition to sitting on Monday, Tuesday, Wednesday and Thursday of next week, the House shall also sit on Friday, the 9th, and Saturday, the 10th, if the discussion on the reference to Select Committee of the Ottawa Bill is not completed on Thursday. Should the reference to Select Committee of the Ottawa Bill be concluded earlier than is expected, Government will proceed with the other legislative business which has already been announced. This consists of:

- (1) The motion to take into consideration the Bill to supplement the Bengal Terrorist Outrages Act.
- (2) The motion to take into consideration the Bill to amend the Merchant Shipping Act in connection with the Haj Pilgrimage, as reported by the Select Committee.
- (3) The motion to take into consideration the Bill to prevent the pledging of Child Labour, as reported by the Select Committee.
- (4) The motion to take into consideration the Murshidabad Bill;  
and
- (5) The introduction of two Bills, namely, a Bill to amend the Merchant Shipping Act for certain purposes and a Bill to amend the Auxiliary Forces Act for certain purposes. It is not proposed to proceed further with these two Bills in this Session.

THE CRIMINAL LAW AMENDMENT BILL—*contd.*

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The Chair takes it that it is the general wish of the House that the consideration of the Ordinance Bill should be concluded during this week. There are two alternatives by which that can be done. One is to sit a little late this evening and finish the Ordinance Bill, so that we may not have to sit tomorrow and the House may adjourn to Monday. The other alternative is to adjourn it today at about the usual time and sit tomorrow. These two alternatives I want Honourable Members to consider and let the Chair know what their wishes are after Lunch interval today.

Order, order. The question is:

"That clause 14 do stand part of the Bill."

**Mr. S. C. Mitra** (Chittagong and Rajshahi Divisions: Non-Muhamadan Rural): Sir, I move for the deletion of clause 14.

Clauses 15 and 16 also deal with the same matter, that is, the suppression of the Press. Because I have tabled a motion for the deletion of clause 16, so incidentally I also move for the deletion of clause 14. Under this clause, in the long title and preamble of the Indian Press (Emergency Powers) Act, 1931, for the words "against the publication of matter inciting to or encouraging murder or violence," the words "for the better control of the Press" is to be substituted. If the intention of the Government as regards the Press laws is to be adequately expressed, then, instead of calling it for the better control of the Press I think it should be called, for the suppression of the Indian Press. This will be the proper phraseology. The whole Bill is intended, as I understand the Government standpoint, as an emergency measure for putting down civil disobedience. If the Government desire to stick to their desire, then if they put in the preamble some such words as restricting the operation of clause 16 only to matters connected with the civil disobedience movement, that will certainly be an improvement, but the phrase "for the better control of the Press" is simply a misnomer. Sir, I move my amendment

**Sir Muhammad Yakub** (Rohilkund and Kumaon Divisions: Muhamadan Rural): One must admit that the Press, and especially the Indian Vernacular Press in India, has done a great deal to create public opinion and interest in political affairs among the masses in this country. During the last 15 or 16 years, specially since the Great War, the Vernacular Press has played an important part in forming public opinion in India. But one will also have to admit that a very great part of our troubles and the mischief that have been committed in this country is due to the vagaries of the Press and particularly the Vernacular Press. Sir, I do not wish to condemn the Press wholesale in this country for what they have done. There are newspapers in this country which advocate very sound and wholesome opinions, and which are doing very good work in civilising the country, but I am sorry to say that a very large number of Vernacular papers is responsible for the conditions which we see prevailing in this unfortunate land today. Communal bias, Hindu-Moslem riots, hatred between communities and communities—which unfortunately cannot be denied—they are all due mostly to the Vernacular Press. An incident that happens in a small village comes in the Press in a very

exaggerated form and it spreads from one corner of the country to another like wild fire. You will find that in villages and small towns as well as in big cities Vernacular papers are purchased by shopkeepers and 20 or 30 people assemble at the shop. One man reads out the paper and everybody else is hearing, and anything that appears in the Press, according to the man in the street, is considered as a gospel truth. However strong the arguments that one may have to contradict the rumours published in those papers, the masses will not believe them. So, Sir, I say that a great deal of harm is being done on account of the Press not being kept in proper control. I will not make a very long speech on this point, but will recite only one passage from a paper which has come to my notice. This is the limit of the vagaries of the Press and the way in which they publish defamatory matter and the way in which they create hatred among the different sections of the public in this country.

**Dr. Ziauddin Ahmad** (United Provinces Southern Divisions: Muhammadan Rural): What is the paper.

**Sir Muhammad Yakub:** I will not name the paper nor will I give the date of it. Honourable gentlemen who read newspapers can find that out very easily. The heading is "Unhappy Sir Fazl-i-Hussain. Prospect of Assembly Leadership". Then it says:

"Sir Fazl-i-Hussain, the father of communalism in its present form, is reported to be unhappy at the fact that a Hindu Member of the Executive Council should have been appointed to be the Leader of the House in the Assembly a second time, and at the prospect of an Indian Christian following him in that important office. Sir Fazli's efforts to canvass Muslim votes for the Government on the question of Ottawa and the Ordinance Bill, as already reported by me, are, therefore, said to be not without their object, that object being to suggest to His Excellency the Viceroy that his (Sir Fazli's) influence is likely to prove much more useful to the Government than that of Sir Joseph Bhore, though the fact that Sir Joseph has been successful in causing a split in Opposition ranks over the Ottawa Pact *(and here I would like to congratulate my Honourable friend, Sir Joseph Bhore, on his success)* is stated to have upset Sir Fazli's hopes not a little. In fact, the feeling among some of the Hindu Members of the Opposition is so strong on the subject that they would rather earn discredit with their constituents by voting for the ratification of the Ottawa Pact than have Sir Fazli in the Lower House in preference to Sir Joseph."

Sir, this shows in what reckless manner hatred is being created by these newspapers in the country. Now, thousands of copies of this paper have been distributed in India today and the man in the street who will read it will take it as gospel truth. My Honourable friend, Mr. Ranga Iyer, is also a journalist. He may try his best to refute the arguments in this newspaper. I suppose all of them are not alike. There are journalists and journalists. My friend, Mr. Ranga Iyer, whom I wish to congratulate on his re-election as Deputy President of his noble party, whatever he may do, the remarks which have been made will instil poison into the minds of the Hindu public against Sir Fazl-i-Hussain. It is very good to maintain the freedom of the Press. I admit that the Press is extremely necessary for civilising a country. The power of the Press is extremely necessary if you want to run a constitutional Government in India, but a Press like this ought to be crushed and the sooner it is crushed the better it would be for the country and the people of this country. Now, Sir, that is not all. You will find how hatred is being created against the Members of this House by this Press. Here is an article by their



[Sir Muhammad Yakub.]

Staff Correspondent. The heading is "What Price Glory". Then it says:

"The Government is not likely to make up its mind with regard to M. L. As. to be nominated as dummy members of the Joint Parliamentary Committee of the Round Table Conference to consider the Government of India Bill till the Ottawa and the Ordinance legislation is safely through the Legislature.

But so keen is reported to be the race for seats on the Parliamentary Committee that some members of the Central Committee that toured with the Simon Commission are reported to have sought the authority of the utterances of the Prime Minister, Sir John Simon and Lord Irwin to press their claims.

One of them is reported to have sought an interview even with His Excellency the Viceroy to press his claims.

No wonder that the Government consider themselves safe on the Ottawa and the Ordinance Bills."

I strongly repudiate, on the floor of the House, the insinuations which have been made against the Honourable Members of this House in this note and I submit that it is not enough that the Press should be controlled only in the matter of violence and murder. To have a better control of the Press is extremely necessary to avoid the publication of such news as I have read out. You may have any number of Unity Conferences. You may have any number of talks among your leaders, but if things like this appear in papers, it is impossible to attain unity among the communities in this country, and, therefore, I support this clause and I oppose the amendment.

**Mr. C. S. Ranga Iyer** (Rohilkund and Kumaon Divisions: Non-Muhamadan Rural): Ordinarily I should not have spoken on this amendment for the very simple reason that the Mover of that amendment has spoken on it and if I rise to speak it is first, to thank my friend who comes from the same constituency as I do for congratulating me on my re-election to my office on this side of the House. Even though the Honourable Member from Moradabad read out two cuttings, I do not believe under the Press Act, as it stands, or, for that matter, under the Ordinances the references he has read out could be stopped from—or punished for—publication in the newspaper Press. I say as a working journalist that unless you suppress all the newspapers in this country, you cannot suppress the publication of news, however inconvenient, however unsatisfactory or however ill-balanced or unfounded that news may be. I admire Sir Muhammad Yakub's loyalty to Sir Fazl-i-Hussain and I also like some of the fine sentiments that he has uttered about that distinguished Member of the Viceroy's Executive Council about whose many-sided talents all of us have such real esteem; but how can you prevent newspapers in this country from publishing views of that kind, and is the prevention of the publication of such news to the good of public life or journalism in this country?

I remember, while in London, when the great controversy raged against Mr. Baldwin and Lord Irwin, how the *Daily Mail* came out with flaring streamer head lines stating how Lord Irwin had secured the previous consent of the then Leader of the Opposition, Mr. Baldwin, for the declaration of a policy on Dominion Status for which His Majesty's Government was responsible.

The *Hindustan Times* which is ably edited by my friend, Mr. Joseph, a very reputed journalist, has not got a hundredth of the circulation of the *Daily Mail* whose circulation runs into two millions or perhaps six millions. No Indian newspaper has that circulation, and the news that appeared in the *Daily Mail* was wired out to America and it was wired out to Europe, and Mr. Baldwin was bitterly attacked in the Rothermere Press.

**Sir Muhammad Yakub:** No paper in England would publish communal hatred. This is the difference between the public opinion of the two countries. In India such Press publishes communal hatred and creates communal hatred.

**Mr. C. S. Ranga Iyer:** I bow to my Honourable friend from Moradabad, and if he brings forward a Bill declaring communal hatred as sedition and designed to suppress the communal Press, I shall vote for such a Bill. (Hear, hear.) But I was saying how the suppression of false news is impossible so long as the news is not considered to be false. The proper duty for the Government, when their Executive Councillors are attacked,—if they feel the attack and it is untrue—is to make use of their Publicity Department and issue communiqués and contradictions immediately. If the news read out by the Honourable Member who just spoke is so flagrantly untrue, the Government's duty was to issue a communiqué and to say it was untrue. It is no use coming to this House and saying that because such things are published, therefore the Press should be suppressed. Unfortunately there is communalism in the country: and as long as Honourable Members on that side stand for separate electorates and we on this side stand for joint electorates, and there is no amicable settlement, communalism will flare up . . . .

**Sir Muhammad Yakub:** Ask my friend, the Sardar Sahib,—who wants a separate electorate in the Punjab.

**Mr. C. S. Ranga Iyer:** I know my Honourable friend wants it, because others want it, and I do not blame him for wanting it, because this is a communal country. I am not attacking those who advocate separate electorates. I am only pointing out that they create communalism, and communalism is a pond that breeds reptiles. (Cheers.) Those reptiles find expression in the manner in which they are finding expression in the Press of this country.

**Sir Muhammad Yakub:** Read today's proceedings of the Round Table Conference and you will find who are the communalists.

**Mr. C. S. Ranga Iyer:** Sir, if you read the proceedings of the Round Table Conference, you will find that everyone who represents a community from a communal point of view is a communalist. I have no quarrel with communalists. If my Honourable friend and I had been at the Round Table Conference, we would have measured swords over communalism. If I had been advocating general electorates and he had been advocating separate electorates, we should have measured swords. If communalism is healthily conducted as my friend, Bhai Parma Nand, conducts it in the Punjab or my friend, Sir Muhammad Yakub, conducts

[Mr. C. S. Ranga Iyer.]

it in the United Provinces, we cannot take exception, because they are entitled to their opinions, but I was referring to the publication of false news or incorrect news so far as the *Daily Mail* of London was concerned on a historic occasion; and, then, Mr. Baldwin, in the course of his speech in the House of Commons, had to repudiate the *Daily Mail's* suggestion. He said that every statement and every implication of that fact was untrue. If in an educated country, the most educated country in the world, where the Press is supposed to be restrained, questions involving the destiny of the Empire and personalities associated with the making of that destiny could be misrepresented in the manner in which the *Daily Mail* represented them, and if freedom could nevertheless be enjoyed by the Press in that country, then I do not see why the same freedom should not be extended to the Press of this country. (Applause.)

**Sardar Sant Singh** (West Punjab: Sikh): Sir, I stand to support the amendment of my Honourable friend, Mr. Mitra. It is unfortunate that in the discussion of this relatively innocent clause, communal heat should have been introduced by no less a communalist than my friend, Sir Muhammad Yakub, the Knight from Moradabad. The stand that he has taken up against communalism is also most welcome, particularly to the Sikh community. I am voicing the feeling of my community without fear of any contradiction from any quarter when I assert that the Sikh community will welcome the day when the curse of communalism disappears from this country. I have nothing to say against the person of the Honourable Sir Fazl-i-Hussain, and I am not supporting the truth or otherwise of what has appeared in the Press about his alleged activities but, coming from the Punjab as I do, I will be giving expression to the general feeling of non-Muslims of the Punjab, when I say that Sir Fazl-i-Hussain did introduce the poison of communalism in its acute form in the Punjab which, later on, found its repercussions in India. (Voices: "Question, question", "Shame shame.")

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Order, order. We are drifting too much into the communal aspect,—which may only be referred to in passing. The Honourable Member appears to be concentrating on that issue, and the Chair considers that to be very undesirable on the present issue.

**Sardar Sant Singh**: I bow to your ruling, Sir, but the question before the House is whether the Press should be permitted or should not be permitted to give vent to the communal feelings to whose tastes they cater. My friend has taken his stand on the argument that because the Press advocates communalism, therefore it should be suppressed. I would have welcomed the suggestion if the Press alone had been the sinner in this respect. But the reality is that the policy of the whole administration, and it is the policy which is advocated and probably sponsored more by my friend, Sir Muhammad Yakub, than any other Honourable Member of this House, fosters and encourages rivalries and bickerings amongst the various communities in India.

**Sir Muhammad Yakub**: Even a rank communalist like Yakub is beaten hollow by the Sikhs . . . . .

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Order, order. The Honourable Member, when he was addressing the House on a recent occasion, very strongly objected to being interrupted,—and now he is himself indulging in frequent interruptions.

**Sardar Sant Singh:** Now, Sir, referring to communalism, I cannot deny, Sir, that it had its birth in the Punjab and the Punjab Press did take it up. The reason was that first of all communalism found its place in the appointment to, and discharge of persons from, the public services by a particular Minister. The greater part of the Press did publish those news and commented upon such appointments and discharges on communal grounds in inflammatory language. The start was given from the Punjab and was very readily taken up by the United Provinces, with the result that when we came to occupy our places here in the Assembly, as elected Members for the Sikh community, we were forced in sheer self-defence to defend our claims to our share of the public services. May I ask my friend how many questions he has put in the Assembly relating to communal matters? Does he or does he not like that his activities in this respect should be published by the Press? Probably my friend is in chastened mood and hence I will invite him to come and join hands with me. I am quite willing and am ready to enter into a pact on behalf of the Sikh community with him to the declaring effect that in future our respective communities would not permit its representatives to ask any communal questions in any Council, and would refrain from asking the Government to make appointments to the public services on communal considerations. Such a declaration I shall at once welcome and can assure him that the Sikh community will be the first to welcome it.

Last time, Sir, when the Press Act was on the anvil during the September Session, this very preamble was changed from "for the better control of the Press" to its present title—The Indian Press (Emergency Powers) Act, 1931. That Press Act is still in force. The Ordinance has been now in force for the last one year. May I ask, why it has not been able to control the Press sufficiently so much so that my Honourable friend now wants to control it by enacting these provisions for another three years? If the Ordinance cannot prevent the *Hindustan Times* from publishing such a news, certainly it will not be able to prevent it from publishing news of this character even by enacting this measure. The liberty of the Press is always healthy. It always provides a safety valve for the grievances of the public and, once the safety valve is closed, the danger is more to the society and to the administration than to the Press itself. I, therefore, support this amendment.

**Sir Hari Singh Goss** (Central Provinces Hindi Divisions: Non-Muhamadan): Sir, I did not intend to intervene in this debate, but I feel constrained to do so on account of the extremely provocative speech which Sir Muhammad Yakub has delivered this morning.

**Sir Muhammad Yakub:** Not at all.

**Sir Hari Singh Goss:** Unfortunately he has suffered from a confusion of thoughts and ideas which must be his excuse for delivering that speech.

**Sir Muhammad Yakub:** I have borrowed it from the Leader of the Nationalist Party.

**Sir Hari Singh Gour:** But in spite of all that might be said in favour of my friend, Maulvi Sir Muhammad Yakub, there remains a residuum which we on this side of the House must indignantly repel. My Honourable friend, oblivious of the issue before him, first launched an attack upon the Vernacular Press of this country . . . . .

**Sir Muhammad Yakub:** Not the whole of it.

**Sir Hari Singh Gour:** . . . . . and then indulged in gratuitous diatribe against creating communal spirit in this country. Finally, he wound up by an appeal to the House that the Press in India, not necessarily the Vernacular Press, but all Press in India, should be muzzled, because it gives vent to views and publishes views which may be or may not be true or correct. Sir, the Honourable Maulvi will find that during the last few days I have been the central target of attack by that very paper to which reference has been made by the Honourable gentleman, but that does not prevent me from standing here and doing my duty uninfluenced by all that has been written by that paper against me personally and against persons who represent my views upon a momentous question upon which this House will be called upon to decide in a few days. As regards the news that has been given expression to by the paper to which the Honourable Maulvi referred, let me assure the Honourable gentleman that so far as we on this side of the House are concerned, we pay very little attention to news which seems especially to interest him. We are more concerned with the ventilation of grievances which affect the public and for that purpose we desire that the Press in India should be absolutely free and unfettered by the trammels of emergency or other legislation. Sir, so far as the tightening up of the Press Act is concerned, let me assure the Honourable Maulvi that only last year we examined the whole question of the Press Act and it is true that ultimately the Preamble was changed, restricting the Act to the publication of matters inciting to or encouraging murder or violence, but Honourable Members of this House should not be unaware of the fact that when the Bill was introduced in this House, it had a wider scope and it was in the Select Committee that the Preamble was altered. If Honourable Members will refer to that Act, they will find that the provisions were intended to deal with all cases of emergency, not necessarily an emergency of the character described in the Preamble. Sir, at the present moment we are dealing with one short question, the question how to cope with the civil disobedience menace and I cannot understand what bearing Sir Muhammad Yakub's remarks have on the question of civil disobedience. We are here concerned with one short, narrow issue—are we justified in gagging the Press so as to prevent it from disseminating news and giving expression to views conducive to the growth of a civil disobedience movement. That is a short question, but my friend never said a word about it. He launched a diatribe against the Vernacular Press, against communalism and referred to a certain correspondent's views on the subject of the leadership of this House. Sir, for the last 12 years, I, standing as a leader of several parties, have been impressing upon the Government that the Law Member should be the Leader of this House, because all important legislation is initiated here and we cannot allow a subordinate of a Law Member to take his place as the chief and responsible spokesman in this popular Chamber. That is a fact which my friend cannot deny and I am very glad that once, at any rate, we

have a man who is a custodian of the law and, let us hope, justice of the Government of India. (Laughter.) He is able to speak with that unique authority as the law giver of that part of the House . . . . .

**Sir Muhammad Yakub:** But you do not accept his exposition of law.

**Sir Hari Singh Gour:** . . . on matters of day-to-day business and legislation. My friend on the other side has raised the wind and he will not be surprised if he and his friends stay to reap the whirlwind. Communalism is not a cry on this side of the House at all and let us dismiss for the time being all questions of communalism and think of the civil disobedience movement and the question of the Press with that movement. In that narrow light I wish to ask the Honourable the occupants of the Treasury Benches that so far as the Press of this country is concerned, we have sufficiently muzzled it under the Act of 1931.

I remember, Sir, what the Honourable the Home Member said the other day that the Act of 1931 passed in October last year was designed to deal with a special political malady and that it had no reference to the civil disobedience movement. Granting that, I wish to know what provisions of that Act would not equally apply to the political disturbance of which the Honourable the Home Member complains and whether the general law coupled with the emergency law which we have placed on the Statute-book should not be resorted to for the purpose of dealing with this new political movement which the Honourable the Home Member wishes to suppress. After we have explored the possibilities of using the present law and found it wanting, then and then only should the Honourable the Home Member come before this House and say: "We have tried this weapon that you gave us. It is not sufficiently effective, and, therefore, we want another and a stronger weapon to cope with the civil disobedience movement which is going on in the country". But, as it is, I find that this Bill would not only muzzle the Press, but it would prevent the Press from giving the news which every man in this country would like to know; and the Honourable the Home Member could not be unaware of the fact that the more you muzzle the Press, the more you set a premium upon the dissemination of false news and rumour from mouth to mouth. It is far more dangerous to let the people gossip about what is taking place than to have a Press which publishes news which Government can contradict and the value of which the people can judge for themselves. There is one chapter in the Statutory Commission's report drawn up by that trusted journalist of the English Press, Lord Burnham; and he points out that if you really wish to bring the policy of Government and the problems confronting them to the notice of the public, you have yourself to develop your publicity department. Merely asking this House that the Press shall not speak is not enough, because, with the growth of education and knowledge, the public of India are anxious to get news; and the Press of India is in its infancy. I have known countries where the daily press has circulation by the million. My friend, Mr. Ranga Iyer, has referred to the *Daily Mail*. I know some papers in the Far East, the daily circulation of which averages 2½ million copies and every man, woman and child, from the highest to the lowest, is a reader of the newspaper. The newspaper is the poor man's university; and if you really wish to encourage mass education, as it is the wish of Government that it should be encouraged,

[Sir Hari Singh Gour.]

you must encourage the Press in India. It is the cheapest form of mass education. You cannot have a Press which simply publishes items from the Court circular and Government news, that Mr. So and So was transferred from one place to another. It must take an interest in the live issues of the day, issues in politics, religion and society; and all these are factors in which the public are most interested. The recent examples of the oppressive nature of the Ordinances in Bombay and Calcutta dealing with the indigenous Press has made us fear that this will again be an engine of oppression to the growing Press in this country, and it is for that reason that we are extremely anxious that while Government should be given every possible help, we must call a pause to the legislative activity of this House when it wishes to snip out of existence the indigenous Press which will not long survive the attack that this Bill is intended to make upon it. It is for that reason that we on this side of the House will strenuously oppose, unsuccessfully though it may be, the muzzling of the Press. I know that during the last few days, Government, assured of their majority, have dealt with all amendments, however reasonable, in a cavalier spirit. I also know that we are not able to bring up our reinforcements to give Government battle on equal terms. But we were assured the other day by His Excellency the Viceroy that this is a Chamber and a country where persuasion counts. May I remind the Honourable the Home Member of that magic word, persuasion.

**Mr. Muhammad Yamin Khan** (Agra Division: Muhammadan Rural): Sir, I have got great regard for my old and esteemed friend, Sir Hari Singh Gour, with whom I sat for three years in the same Party in the first Assembly, and I congratulate him on the moderation of his speech and the spirit in which he delivered it. He avoided all the heat which had been created in the House, but by his moderate speech he brought down the atmosphere to great coolness. I, however, do not agree with the points which he made, and I do not hold any brief for my Honourable friend, Sir Muhammad Yakub, when I say that what he wanted to urge before the House was not communalism which he was condemning, but he only gave some instances of the irresponsible manner in which certain papers are conducted. What he meant was that this kind of Press is doing the greatest disservice to the country and he intended to say that that sort of Press is not a patriotic Press though they distribute news in the name of patriotism, but in reality promote communal hatred. He was the first to condemn communalism and the Press which promotes it between the people. What my Honourable friend, Sir Muhammad Yakub, wanted to urge was this that all the trouble in India which is impeding the progress of the country is communalism which is created and engendered in the minds of the people by the irresponsible Press which unfortunately we find today in India.

**Sir Hari Singh Gour:** And the irresponsible people as well.

**Mr. Muhammad Yamin Khan:** Quite right. Irresponsible people when their minds are affected by the irresponsible dissemination of news create these troubles. Irresponsible people would not be affected if there was nothing to feed their sentiments from the Press. This is the feeder which is pushing them up and creating these disturbances in the country.

But, Sir, coming to the point, what I want to urge is this, that my Honourable and learned friend says that the Press should not be muzzled. I certainly would be the last person to ask that a responsible Press which might help the creation of good feelings in the country and the achievement of progress in the country should be in any way touched. But what Press has been touched here? No responsible pressman will ever be affected by this law, but that kind of Press which makes martyrs of people who have committed all kinds of atrocities and tried to take away not only the liberties, but the lives of people. These people are made into martyrs by a certain section of the Press, and that Press gives some people, when they commit atrocities, titles of heroes, and they are extolled as martyrs, and that leads the other young people who cannot pay any attention to the harm it brings and they go up and commit the same atrocities in the country which have been the greatest drawback in our progress. I can assure my Honourable friend if he sees coolly—I know he does not agree with those kinds of activities, if he did agree, he would not be in his seat here today, but let him judge coolly whether they have not put the hands of the clock back. Have these misguided patriotic youths not have made the country's progress retard. Let him judge coolly and he will find that you are losing all your public opinion on account of these few misguided youths. Their actions are responsible for this drawback in your public life and who has made them do this? This irresponsible Press. This irresponsible Press has taught them to do certain kinds of acts which had impeded the progress of your country and if this kind of propaganda is stopped by this measure, I think the greatest service will be done to the country. Two things you will require—peaceful progress in the country, best understanding between the two communities. If you gain these two objects, you will march slowly but surely on the path of your freedom for this country. Without this you can never gain. I assure my friend that this Bill is not intended in any way to hinder or to take away the liberty of that class of Press which stands or which makes the propaganda for the progress of the country. With these few words, I oppose the amendment.

**Mr. B. V. Jadhav** (Bombay Central Division: Non-Muhammadian Rural): Sir self-complacency is a virtue and it leads one to admire one's own opinions and to condemn those who are preaching against those opinions. That has been the general practice all over the world. In England also the yellow Press is condemned by the more moderate opinion, because the moderates think that their opinions are the best and for the good of the country, while the opinions of the yellow Press are misleading and are leading people to their ruin. In the same way, in India, we find some persons condemning the Press and some persons extolling it. The Press has no doubt contributed much to the uplift of India as a whole. Without the Press education will not spread; and if we are to say that only the pernicious part of the Press should be suppressed and the others encouraged, I may point out that that will be almost impossible. It is very difficult to draw a line between the pernicious and the non-pernicious. Broad principles might be laid down and something in that way might be tried; but we have to be careful that we do not kill the best with the worst.

The Vernacular Press has always been under suspicion for a very long time. If I take myself back to about half a century, we shall find that in Lord Lytton's days there were the repressive measures for controlling



[Mr. B. V. Jadhav.]

the Vernacular Press. The Vernacular Press had always been the eye-sore of the governing section of the community. But now-a-days it is not only the Vernacular Press, but also the papers which are published in the English language which are found to be very objectionable and various devices are utilised to put them down. This Bill is an attempt in the same direction. It is not merely intended to suppress the Vernacular Press which is charged with misleading the people. The Press which is now wanted to be brought under control is the English Press, that is the papers that are published in the English language; and my friend, Sir Muhammad Yakub, gave expression to his feelings by quoting passages from an English daily paper published in Delhi. I need not say anything about the subject matter of those quotations. We all know and we all feel how we admire the Honourable Sir Fazl-i-Husain. He has been a very fine man and a very fine officer and he has been doing his duty very conscientiously. At the same time, persons in authority will come in limelight and attract some attention from the members of the Press to face criticism. It is, I shall say, the penalty for being great. If my friend, the Honourable the Law Member, or the Member for Commerce or any other Member, is criticised in the Press, it ought to be taken as a compliment and one need not be very much angry with those criticisms. The Vernacular Press mostly has got a very poor circulation and they find it very difficult to make both ends meet. There are very few Vernacular papers whose circulation goes over three or four thousands: and many of them do not come to even 200 or 300. They are eking out an existence, and I think they ought not to be troubled at all. Their views reach a very few people and, as a matter of fact, the editors of those papers have not got the intelligence or the means to displease a powerful Government. But some of the English papers are very bold enough and many a time one might, if one is very critical, point out articles which are objectionable. But as they are published by big English syndicates, the Government will not pay any attention to them and we, on our side too, read them and simply laugh at them, because we know that they can do us no harm. It pleases the English side of the Press and it does India no harm . . . . .

**Mr. S. C. Mitra:** It does great harm.

**Mr. B. V. Jadhav:** The claim has been made here that the Press is the ventilator of the grievances of the public and the gagging of the Press is ultimately to the loss of the Government themselves. I support that view and urge on this House that the passing of any repressive measure, especially gagging the Press, is not a very good thing, and I, therefore, support this amendment.

**Mr. B. N. Misra** (Orissa Division: Non-Muhammadan): Sir, the saying goes "Everybody for himself". Probably every community speaks for itself, and perhaps extols its past and thinks of its deplorable present condition; but I think the Press is for us all; the Press is not for this man or that man or for this community or that community or of this society or that society. The Press, if you feel offended today, I think it will come to your defence and will defend you in so many words and so many articles; and when we feel offended one day, I think the Press will come for us if we have been offended in so many ways and the Press will defend us also. So also officials; if they see

some day that an unreasonable and unnecessary attack is made against them, the Press will come for them and will defend them and will extol their goodness, glories, and so on. So to talk of the Press as communalist, or this side or that side, I think we are entirely mistaken, to either press, oppress or repress the Press (Laughter) on that ground. Some Press will take the Congress view and some will take the Government view.

Sir, I am reminded of a saying in Sanskrit "*tramelakam nindati kamdletsu*". The meaning of that is the goat always blames the camel on the ground that it takes the big twigs and trees and does not take the soft green grass like the goat. Now, the Government blames the Congress or one community blames the other, and so on, but each has its own justification; but the Press at any rate should be kept above and beyond all these communal or other quarrels. We have got the man power, the wealth power, or power of intellect, and so on, but the Press is a power above all these powers, because the Press will one day blame the Government if they do anything wrong, it will blame a particular community or body or association another day if it goes wrong; similarly it will praise the Government one day if they do any good to the people. Therefore, the Press should be regarded as above all and beyond all politics. The Press writes one paragraph for the Congress today and it writes another paragraph for another community tomorrow or sometimes it also writes against a community or the Government if they go wrong. Therefore, we should not make any attempt to gag the Press simply because it is a Vernacular Press or it is a Congress Press. We all take a particular view about certain questions, according to our training, our liking or disliking, some take a communal view, while others take a broader view, and so it is quite clear that if communalism itself did not come out of us, how could the Press come out with that news this morning, to which allusion was made here. Therefore, the Press should not be blamed on the ground that it is always taking the Congress view. If the Congress does something wrong, then that very Press will condemn the Congress instead of praising it. Why should the Press be gagged? Sir, in India the Press has got very small powers, though in all the other civilized countries the Press has got immense power. Therefore, no attempt should be made to suppress the Press by this Bill, and the amendment that is brought before the House is really commendable, and everybody should lend his support to it. If at any time the Press goes wrong on any particular question, then that matter can be considered and judged on its own merits, but why should the Press be gagged as a whole? Sir, I support this amendment.

**The Honourable Mr. H. G. Haig** (Home Member): Sir, the Honourable the Mover of this amendment very justly pointed out that his proposal was merely incidental. If in fact clause 16 of this Bill is passed, it becomes necessary as a matter of drafting to alter the preamble of the existing Press Emergency Powers Act in the manner proposed in this clause. It is, therefore, really a matter of drafting. As Honourable Members are aware, the Press Emergency Powers Act was passed with a very limited intention. It was intended only to control the Press against inciting to or encouraging murder or violence, and we propose now to extend that control over a much wider field. My Honourable friend, the Leader of the Nationalist Party, who has a peculiar affection for that Act, in the passing of which, I understand, he took a prominent part, has asked

[Mr. H. G. Haig.]

us not for the first time why we are not content with that, why we have not tried to see whether we can proceed with those powers alone. Sir, the answer is that we have tried it in the past. Before the issue of the first Press Ordinance in 1930 at the beginning of the first civil disobedience movement, we found that the Press activities in connection with the civil disobedience movement were completely beyond our control under the ordinary law. Again, Sir, when that first Ordinance expired at the end of six months, we did, in fact, do precisely what my Honourable friend, Sir Hari Singh Gour, suggests. We observed for a period of one or two months, and the results, I am afraid, were precisely those that might have been anticipated. The situation deteriorated very rapidly, and, after this interval of observation of one or two months, it was necessary to issue a second Ordinance. I do not think, Sir, we can justly be expected to try another period of observation.

Now, Sir, this debate has provided one interesting incident in that my Honourable friend, Mr. Ranga Iyer, has promised in one respect at any rate to support clause 16 of this Bill, for, he said, that if any proposal were put forward which would have the effect of controlling the communal Press, he for one would vote for it. Well, Sir, I would invite his attention to sub-clause (h) of clause 16, and I confidently expect his support to that sub-clause at any rate.

My friend, Sir Hari Singh Gour, suggested that we were not duly receptive of the arguments addressed to us from the other side of the House and he begged us to have some regard to the virtues of persuasion. Sir, I think we have listened very attentively to the arguments which have been addressed to us during these many days when the Bill has been before the House, and I would ask Honourable Members opposite to remember that we have not made these proposals lightly, that we had thought over them very carefully before they were introduced and that we have reviewed them very carefully during the Select Committee procedure, and I would ask them to think that possibly if we do not allow ourselves to be persuaded by the arguments that are addressed to us, it may not be that we are obstinate in the wrong, but that we are firm in the right. Sir, I oppose the amendment.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question which I have to put is:

"That clause 14 be omitted."

The motion was negatived.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That clause 14 do stand part of the Bill."

The motion was adopted.

Clause 14 was added to the Bill.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That clause 15 do stand part of the Bill."

**Mr. O. S. Ranga Iyer:** Sir, I move:

"That clause 15 of the Bill be omitted and the remaining clauses be re-numbered accordingly."

Sir, my only reason for moving this amendment is that I belong to the Press, and this is one of the two amendments out of a list of 100 that I happened to give, but I do not propose to take much time of the House, for I am convinced that the Honourable the Home Member is obstinately stiff and persists in his wrong belief. Sir, I would only draw his attention to the statement made by his distinguished predecessor with whom we had a very good discussion in the Select Committee on the Press Bill. Sir James Crerar said that "Government had already gone a long way in reducing the period from three years to two years, and if we went beyond that", he added "we should be failing in our duty". His distinguished successor has gone beyond that in the opposite direction (Laughter) and obviously he is performing his duty. But my duty to the House and the Press compels me to oppose his attempt to extend the period of operation of the Press Law because all its detrimental effects will be upon the Press for the extended period.

**Mr. B. Sitaramaraju** (Ganjam *cum* Vizagapatam: Non-Muhammadan Rural): I would like to add only just a word. Government seem to have no justification at all for extending the period of these provisions. The Press was already penalised under the old Act, and as my Honourable friend has just now read a passage, it was a definite undertaking given to this House that its operation would come to an end at a particular period. We have been alienating the sympathies of the Press already. I would like to ask the Government whether this is an occasion to further alienate the sympathies of the Press at a time when, according to them, constitutional experiments are to be made in this country. With these few words, I support the amendment.

**The Honourable Mr. H. G. Haig:** With reference to the remarks made by my Honourable friend, Mr. Ranga Iyer, in regard to the duration of the Indian Press (Emergency Powers) Act, I would merely refer him to the fact that we are here dealing with totally different conditions and considerations to those which applied in the case of that Act. As he will remember, that Act was passed in order to deal specifically with the terrorist movement. It was passed at a time when the civil disobedience movement was not in operation, when, in the words of the Congress, it was suspended and there was some reasonable expectation that it would not be renewed. Those conditions unfortunately do not prevail at the present time. The question of the duration of the Bill generally will come under consideration in connection with the amendments that are proposed on clause 1, and I, therefore, do not propose to enter into those considerations now.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question which I have now to put is;

"That clause 15 of the Bill be omitted and the remaining clauses be re-numbered accordingly."

The motion was negatived.

Clause 15 was added to the Bill.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That clause 16 do stand part of the Bill."

**Mr. S. C. Mitra:** Sir, I move:

"That clause 16 of the Bill be omitted."

As I have already observed in connection with my previous amendment, an attempt has been made in this clause not only to widen the scope of the Press-controlling-legislation, but to widen it too much so as to bar even legitimate criticism. It is not better controlling the Press, but really suppressing the whole of the Indian Press. On referring to the old Press Law of 1910, I find that some of these clauses excepting sub-clause (u, and sub-clause (i) were also in it and when it was repealed in 1922, there was no necessity for the next ten years to have these repressive laws. In the Ordinances, they were all incorporated, but in October, 1931, when Act XXIII of 1931, the Press Emergency Act, was enacted, only the clauses relating to violence and murder were enacted and the other portions were left out. The Honourable the Home Member said that the experience of the two or three months, when there was no such legislation in force, as is being contemplated now, was that the freedom of the Press was abused. He has not cited any evidence, nor are we in a position to say whether there was a necessity during the regime of the Press Ordinance for application of these clauses. The clauses are so wide as to include almost any kind of criticism. It begins with—"anything that tends directly or indirectly" the word 'indirectly' extends the scope of the clause to any extent. Then the clauses deal with "seduction of soldiers", or "hatred or bringing into contempt the British justice in India". The persons who are guilty of these offences as also other people coming under the newly created offences may be punished by proceeding against them in a court of law, but if such wide powers are given to the Executive to proceed against the Press, they are sure to be abused.

It is known to Members of the House that not only on one occasion but on many an occasion, after the passing of these Ordinances, security was demanded from newspapers on the very day that the Ordinances were promulgated. In the case of the *Hindustan Times* of Delhi, if I remember aright, security was demanded on the very day the Press Ordinance was promulgated. There was nothing to prove that they had infringed any of the sections of the Ordinance, because the security was demanded the very day on which the Ordinance came into force. That shows that the Government or the magistracy are not inclined to exercise their power discreetly. Any opinion that is not to their liking, or is found to be hostile, is immediately punished with some demand for security from the paper. Before widening a legislation which is already too wide we should see that public opinion in this country is not altogether stifled. As Sir Muhammad Yakub rightly admitted, the Press has an educating effect on the masses. If anything and everything that appears in print is believed by the villagers, the fault is not of the newspaper publishers or editors. The education that the villagers have got during the last 150 or 160 years of the British rule have not helped them to discriminate between what is wrong and what is right and it is no use putting the guilt at the door of the newspaper editors. As regards the communal feelings it is the duty of the Press to give expression to the real feelings that are in the nation. The papers

are as much helpful to the Government as to the public for they give expression to the inner thoughts of the nation. If Indians are communal, I do not see why the Press should not rightly interpret that feeling and give expression to it. I have no quarrel with people who sincerely believe that there should be communalism, but I regret the intolerance of the communalist when he finds that his communalism is replied to by the other communalist. Let us be fair to both sides. If we were to enact laws against manifestation of communalism which is often evidenced in some of the interpellations in this House, I think we should begin with ourselves in this House. Sir, I do not see why the papers should not publish what is true. It may not be palatable and relishing, and for a despotic Government like the present bureaucratic Government, which are not responsible to anybody, I think it is to their best interest to encourage honest and public criticism of their action. Instead of having a legislation gagging the entire Press, Government should see that the feelings of the people may be properly ventilated. If there is wrong information, if there is misleading news in the Press, certainly other courses are open. There is not only one Press which is controlled by the Congress. In this House it is always claimed that the Congress influence is not great, that they do not represent the majority or the masses or even the cultured classes. Why should not other non-Congress people start their own newspapers? In all countries, as Mr. Ranga Iyer pointed out, advantage is taken not only by politicians, but by other classes to ventilate their views and sometimes it is really very difficult to say what is the correct opinion because judgment is always biased by inclination and interest of the particular individual, even unconsciously. By this measure even legitimate criticism will be stopped. Just now I got a letter from the Editor of one of the Vernacular papers in Bengal that has the widest circulation in Bengal. He writes to me to say that under the pretext of attaching paddy for realisation of punitive taxes, all the village riff raffs go with the police and plunder the paddy that has been gathered in the granaries of the villagers in Nandigram village of Tamluk sub-division in the District of Midnapur. He says, they have got authenticated reports from several persons, but they dare not publish it in the papers, because that will come under some of these clauses as saying something against the police as a class. This is not an imaginary case. Every day journalists are feeling that they are failing in their duty to the public in not drawing attention to these grievances and events that are happening in India almost every day in the name of dealing with civil resisters. If this clause is to be strictly construed, Government will be found to be guilty in more cases than one, for setting up class against class. I find in my constituency of Chittagong, Government have ordered the realisation of punitive taxes from Hindus alone. They have treated the whole Hindu community as prestimably guilty of revolutionary crime. There are number of instances in which attempts are made to set class against class and, if this clause is to be strictly applied, Government officers will be found guilty. There may be some idea among my Muslim friends that this lawlessness will not affect their fellow brethren. I have got in my hand a telegram from Mr. Abdul Maabud, President of a meeting in Chittagong. He wires ;

"Grossly insulting searches of about 150 respectable Moslem houses of Alkaran in the town made Wednesday 16th instant on meagre information regarding absconders indignities caused to *pardanashin* ladies some inside the house and some dragged to considerable distance and exposed in public street after removing male members under arrest to another place some *pardanashin* ladies roughly handled and rudely treated in

[Mr. S. C. Mitra.]

the name of searches and Moslem males beaten and some grossly insulted. *Mosallies* stopped from going to mosque. *Moazzen* of Alkaran mosque threatened with bayonet and revolver to prevent *Azan* of afternoon prayer. In view of these facts learn great consternation causing bitter resentment and indignation in the Moslem community. This large mass meeting assembled at Jamah Mosque premises on Friday 18th instant at 2 P.M., after Juma prayer under the presidency of Jamah Mosque Imam severely condemns such outrageous deed on innocent peaceful Moslem citizens of town and urges on His Excellency for an immediate inquiry by an impartial commission of officials and non-officials and for proper and adequate redress."

Even such a report of a meeting will not be published in any newspaper in Bengal, because it will come under the present Press Law. So, I say, that in this question there cannot be any difference between communities and individuals. When there is oppression, everybody in the country will suffer from it. We are not quoting imaginary cases in which this law will be rigorously enforced. Now, Government also claim that the civil disobedience movement has been controlled, let there be no more drastic legislation, at least as regards the Press, by which alone Government will be in a position to know the sentiments prevailing among the masses. Sir, I move for the deletion of this clause.

**Mr. C. S. Ranga Iyer:** Sir, I, on behalf of the Indian Press and in my capacity as the President of the Upper India Journalistic Association, beg of the Honourable the Home Member not to drive the lid down the seething cauldron. Sir, the Press is the safety-valve, and I would ask him not to sit on the safety-valve. Sir, it is unnecessary for me here today at this late stage, and especially in view of certain considerations that you, Mr. President, urged, and with which I am fully in agreement, to prolong the agony, for it is agony to me, of this futile debate. I know that the Honourable the Home Member has had for every "why" emanating from this side of the House, a "wherefore" all his own, but as a working journalist I would ask him to consider and reconsider his position, because he is not taking action or contemplating the sanctioning of taking action under this measure against the offending editor, but against the newspaper Press. If he persists, as he has been persisting, Sir, in the evil course, I would only beg of him once again to consider one or two things. The operation of this law will be in the hands of those who will be the victims of the attacks in the Press. It is they who would like to set up the criterion of journalistic goodness. I would beg of the Honourable the Home Member to consider whether,—if he should persist,—if he would not at least inform the district officers concerned through the Local Governments and if he would not give an assurance on the floor of this House, that not one warning but two or three warnings would be given to the Press before any action is taken. If he does not propose to grant this simple request, there will be no other alternative but—if my Party agree and if my colleagues agree—to press this motion to a division.

**Sir Muhammad Yakub:** Sir, far be it from me to advocate the stopping or the crushing of the Press in India. When I made my speech early this morning in opposing the motion for the deletion of clause 14, I made it quite clear that I appreciated the services of the Press in the country and that I recognised the work which it is doing in educating the masses. What I said, in that speech, was that there is a section of the Press which is creating trouble in this country, which is fanning the civil disobedience movement and which is giving encouragement to lawlessness,

and I submitted that it was that section of the Press whose activities ought to be brought under control. I hold that better control of such Press was needed than is the case today. Sir, in the present clause, an effort has been made to enumerate the undesirable activities of the Press and this clause aims at stopping those activities. Now, can anybody deny that there is a certain section of the Press in this country which lives only upon disseminating false and exaggerated news? Can anybody deny that there is a section of the Press which lives upon creating hatred between communities and communities? Can anybody deny that there is a section of the Press which lives upon extortion and blackmailing? Sir, it is this section of the Press whose activities ought to be curtailed, but it does not follow therefrom that I condemn the Press in this country wholesale. I submit that the objectionable activities of the Press enumerated from (a) to the end of the clause are such as should not be tolerated in any civilized country, and especially on the present occasion when we find that the constitution of our country is on the anvil and we find that a very suspicious atmosphere is being created, it must be the duty of every well-wisher of the country to help in creating a wholesome, a moderate and a peaceful atmosphere at the present time. After all, as has been so often said, this Bill is not going to be a permanent measure on the Statute-book. It has so often been said that an emergency has been created by the present conditions and, therefore, we have got to take some drastic measures. So long as the present conditions prevail in the country, it is extremely necessary that such activities of the Press should be curbed or, at any rate, stopped for a short time. With these remarks, Sir, I oppose the amendment.

**Mr. Gaya Prasad Singh** (Muzaffarpur *cum* Champaran: Non-Muhamadan): Sir, I rise to support the amendment which has been moved, and I wish to do so in just a very few words. Sir, the fetters which are tied round the neck of the Indian Press are already too stifling, and the proposal embodied in this clause is of far too sweeping a nature to allow us to give our accord to it. Under the Press Act, a newspaper is called upon to deposit a security. This power has been misused in many cases in the past, and I shall just mention one instance to show that the way in which the control is exercised on the Press is so stringent that the position is intolerable. Sir, there is a paper which is proposed to be published in this City of Delhi under the name of *The National Call*, and Mr. Sahani, who was the editor of the *Hindustan Times*, is going to be the editor of this paper. Now, before this paper has been even called into being, it has been called upon to deposit a security of Rs. 2,000—the maximum security under the law. Now, I ask, why has the security been demanded? The paper is still in the womb of futurity. Mr. Sahani had previously been editor for about seven years of the *Hindustan Times*, and it would seem that because of his connection with that paper this security has now been demanded. During his editorship of that paper, it was called upon only once to deposit a security; that was in 1930. The matter went up to the High Court, and the High Court declared that the demand of security was illegal. But, under the Press Act, the High Court had no power to order refund of the money, or to cancel the executive order. This security which was demanded of Mr. Sahani was confiscated a few months later at a time when Mr. Sahani was in jail—about three months after Mr. Sahani had been in jail. In 1932, security was again demanded from the *Hindustan Times* in connection with certain



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articles which appeared in the paper subsequent to his resignation of the editorship of that paper. So it can hardly be said that Mr. Sahani's antecedents justified the demanding of a security from the *National Call* in any way, and no reason has been assigned in the order.

This, Sir, is the way in which security is being demanded without any compunction, and without any regard for the provisions of the law, and this has happened in the case of an Administration which is under the direct control of the Central Government. What are we to expect in the case of those papers which have to depend for their existence on the mercies of petty officials under different Local Governments? In my own province of Bihar and Orissa, there was a newspaper called the *Searchlight*. Security after security was demanded from that paper for small infringements of the law, sometimes more fancied than real; and the result was that that paper has ceased to exist and it has stopped publication for many months. As a matter of fact, we have no paper in our province. These are the vagaries of the executive officials, and the provisions of the clause which is sought to be enacted are of such a Draconic nature that I am unable to give my support to them. I will just refer only to one instance. In clause (h), it is stated to be an offence to promote feelings of enmity or hatred between different classes of His Majesty's subjects. That is a very laudable object, but is not the present law sufficient to cope with these situations? The Indian Penal Code was amended only a few years back, and the offence which is sought to be penalised under the provisions of this clause has also been provided for in the existing law. Therefore, I strongly object to any stringent provisions being enacted in this Bill to make the existence of the nationally-inclined papers more precarious than at present.

The Assembly then adjourned for Lunch till Ten Minutes Past Two of the Clock.

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The Assembly re-assembled after Lunch at Ten Minutes Past Two of the Clock, Mr. President (The Honourable Sir Ibrahim Rahimtoola) in the Chair.

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**Mr. S. C. Sen** (Bengal National Chamber of Commerce: Indian Commerce): Sir, I oppose the motion that clause 16 should form part of the Bill and I support the motion for its deletion from the Bill. Sir, it is admitted by the Honourable the Home Member that the provisions of the Bill are irksome and might hurt many respectable newspapers in this country. I do not know whether any distinction can be made about respectable papers so far as the Indian-owned Press is concerned. In his recent utterance, Sir Alfred Watson in England mentioned that all the Indian-owned papers in this country were against the Government and it must be admitted that Sir Alfred Watson knows more about the Press of this country than anybody else does. His opinion, therefore, should carry weight. According to him, Sir, there is no question of any respectable Indian-owned paper, because all the papers are brushed with the same paint. Under these circumstances, the hopes which were entertained by Sir Muhammad Yakub and others that this legislation will not affect the respectable section of the Press falls to the ground.

Now, first let us understand what is the necessity of this all-embracing legislation. So far as I remember, and I may be corrected if I am wrong, the Honourable the Home Member did not make out any serious case for the promulgation of such an all-embracing, repressing and, according to him, irksome legislation. In 1931, the Emergency Press Act was enacted and at that time the predecessor of the Honourable the Home Member said that the Act had not gone an inch beyond the necessities of the time. It may not be necessary for me to read any passage from his speech when he was introducing that Bill. I may, however, quote a sentence or two. This is what he said:

"The second point which I wish to emphasise is that this Bill is very narrow and restricted in its range. The Government have not sought to go one inch beyond the actual necessities of the case. Though the emergency is great, we have deliberately sought to restrict ourselves to the minimum requirements of the case."

I wish the Honourable the Home Member in the present case had followed his predecessor's steps and restricted the Bill to the absolute necessity of the present situation. This he has not done. He has brought in a legislation which will hurt anybody and everybody and will especially gag the Press for a considerable time. Now, Sir, as regards the provisions. Most of the provisions are to be found in the old Act of 1910 with the exception of the *Explanation* contained in section 153A of the Indian Penal Code. These provisions were the subject of a judicial decision in the Calcutta High Court and I may be permitted to refer to the judgment of Sir Lawrence Jenkins in the case which has already been cited three times in this House during these debates. On page 478 of the Indian Law Reports, 41 Calcutta, he says:

"The provisions of section 4 (*that is the section to which we are adding all these provisions*) are very comprehensive, and its language is as wide as human ingenuity could make it. Indeed, it appears to me to embrace the whole range of varying degrees of assurance from certainty on the one side to the very limits of impossibility on the other.

It is difficult to see to what lengths the operation of this section might not plausibly be extended by an ingenious mind. They would certainly extend to writings that may even command approval.

An attack on that degraded section of the public which lives on the misery and shame of others would come within this *wide* spread net: the praise of a class might not be free from risk. Much that is regarded as standard literature might undoubtedly be caught."

Sir, that is not the language of an Indian journalist, but it is the language of one of the greatest Judges who have come out to this country to administer justice and whom at a difficult time Lord Morley chose to send out to Bengal for the purpose of restoring confidence in the minds of the public. If that is the language used by such an eminent Judge, I ask the Honourable the Home Member whether, in the light of that decision, he ought not to have restricted the operation of this clause and of the clauses which are being added to same so that it could be understood by an ordinary man and which would not gag the whole Indian section of the Press. I appeal to him to see whether he cannot delete the whole clause or such portions thereof as he considers to be not necessary in the exigencies of the time and thus restrict the operation of these portions within reasonable bounds. We know how this Press Act and the provisions contained in the Ordinances are operated on. I can say how they are acted upon so far as Bengal is concerned. Even the proceedings of the Legislative Council there are not allowed to be published if they contain anything against Government. Sir, no news can be given

[Mr. S. C. Sen.]

in the papers and I know that practically every day newspapers get a sort of typed form saying that their articles do not come up to the proper standard. That being the case, how can the Press which is considered to be the fourth State function properly and use its influence even in educating the public opinion regarding the things which are coming on under the new Constitution. Sir, the object, I am constrained to say, is to gag the Press and to keep it under control so that it might not criticise the inadequacy or otherwise of the reforms which are shortly to be introduced. That is the charge which I make and I trust the Honourable the Home Member will even now find it possible to see that some of the very wide provisions are not resorted to. With these words, I support the amendment.

**Mr. B. V. Jadhav:** Sir, the Honourable Member who just sat down has shown how section 4 of the old Press Act, the Emergency Powers Act of 1931, is sufficient for the purposes of Government, how wide it is in its scope and how wide in its operation also it is; and I shall point out that there is no necessity of the amendments that are proposed in the new clause 16. But, before that, I should like to point out how the present provision in the Indian Press Emergency Powers Act is being worked. I shall take a typical case. In Bombay, there is a village in the district of Satara called Masur and there is a religious man who has got a press there. He generally goes all over the country and teaches a number of boys and is doing religious work. The principal work he has done so far is bringing back into the Hindu fold such persons as have gone out of it generations ago. His energies for a number of years have been confined to the territory of Goa where a number of Hindus were converted in previous generations to Christianity; but the people do not like that form of conversion and they were half-Christians and half-Hindus; and this Bawa of Masur has been proselytising and bringing them back into the Hindu fold and, up to this time has succeeded to the extent of some three or four thousands. This man keeps a press in that village wherefrom he publishes religious books, generally reprints of old books of Ramdas, and so on. In spite of all this, he was taken into custody under the Ordinance and his press has been attached, although, as far as my information goes, I do not think that anything but religious literature was published by it; and the Government of Bombay one day issued an order of forfeiture of the press and offered the press for sale . . . .

**Mr. K. Ahmed** (Rajshahi Division: Muhammadan Rural): Since how long has he started the paper and this propaganda?

**Mr. B. V. Jadhav:** Five years ago.

**Mr. K. Ahmed:** Ah. The cat is out of the bag! (Laughter.)

**Mr. B. V. Jadhav:** There is no cat in it and the bag is almost empty. (Laughter.) And although many attempts have been made to get justice for this man, the Government are so hard-hearted that they are not going to budge an inch and we now see in this House the attitude of Government towards this Bill. Clause 16 reads:

".....(c) to seduce any officer, soldier, sailor, or airman in the Military, Naval or Air Forces of His Majesty or any police officer from his allegiance or his duty."

I do not think there is any necessity of this sub-clause (c). If any individual commits that offence, ample provision has been made in one of the previous clauses of this Bill to haul him before a Court of law and, I do not think that if any newspaper is foolish enough to print such matter, it will have any effect. The editor will be liable to be hauled up before a Court of law, and, as a matter of fact, the Military authorities do take precious care of their soldiers and they do not allow any newspapers to be read by the soldiers, at all events the Indian soldiers. As the Indian soldiers are prevented from reading any Indian newspaper, so it does not matter what is published therein, and there is no necessity of providing such a sub-clause for protecting Indian soldiers; and, as the newspapers in the vernaculars are not read by Indian soldiers, I do not think there is any danger of their being seduced to give up His Majesty's service. Then clause (d) says:

"to bring into hatred or contempt His Majesty or the Government established by law in British India or the administration of justice in British India . . ."

I do not think there is any necessity of such a sub-clause, because, under the Indian Penal Code, Government are sufficiently protected and many newspapers have been hauled up and punished under the regular law of the land. And, then, it goes on to say:

"or any class or section of His Majesty's subjects in British India or to excite disaffection towards His Majesty or the said Government."

I think section 153A is sufficient protection and sufficient provision against offences coming under this part of the clause. Coming to sub-clause (c), where it says:

"to put any person in fear or to cause annoyance to him and thereby induce him to deliver to any person any property or valuable security or to do any act which he is not legally bound to do or to omit to do any act which he is legally entitled to do," this offence is usually done by an individual or by a number of men; and it is provided for in one of the earlier clauses of this Bill. But if a newspaper tries to commit this offence by publishing an article in a paper, his intentions will be simply futile. There cannot be any effect and, as I have pointed out just now that if any individual or if any editor or printer or publisher of a paper commits this offence, he will be liable under the previous clause. If a paper tries to do it, it will simply be useless, because we need not fear any result. Of course, in the newspapers there are sometimes advertisements in my part of the country wherein the wife gives notice to the husband that unless he pays something like 150 or 200 rupees to her for money expended by her when he had deserted her, she will marry some other man and will sue him for damages or recover from him the arrears of maintenance, and so on. That will be construed as a threat to deliver some property and that perhaps may give some work for this sub-clause. But, in other cases, I submit, the clause will be quite useless. In the same way, sub-clause (f) is of not much use. It is intended to protect Government revenues; but I do not know whether the revenue of the landlord is protected thereby. So far as I can see, the wording is confined only to the land revenue which goes into the Government coffers. There is a reference to "or any rent of agricultural land or anything recoverable as arrears of or along with such rent". I do not think that will protect a landlord against the no-rent campaign or a talukdar or a jagirdar. No provision has been made here in that respect . . . . .

**The Honourable Mr. H. G. Haig:** Why not? Surely it will give protection against a no-rent campaign.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): If the Honourable Member wishes to yield, he must resume his seat.

**Mr. B. V. Jadhav:** Yes, Sir, I yield. Has the Honourable the Home Member got to say anything?

**The Honourable Mr. H. G. Haig:** I say, why does the Honourable Member suppose that this provision does not cover a no-rent campaign?

**Mr. B. V. Jadhav:** I think my reading of the sub-clause leads me to that conclusion:

"To encourage or incite any person to interfere with the administration of the law or with the maintenance of law and order,"—

of course, that refers to Government alone, and a landlord does not come in here at all,—

"or to commit any offence or to refuse or defer payment of any land-revenue, tax, rate, cess or other due or amount payable to Government". . .

**The Honourable Mr. H. G. Haig:** Then go on.

**Mr. B. V. Jadhav:**

"or to any local authority, or any rent of agricultural land."

So I take it that this sub-clause protects the Government revenue alone and the landlord does not come in. Government also own lands and when such lands are given on rent, it is rent and not land revenue. Land revenue is assessment; land revenue is one thing and rent is a different thing. When land belonging to Government is given to a tenant at twice or thrice the amount of the land revenue, the amount equal to the land revenue will be revenue, and the other portion will be rent paid to Government and not to any private individual.

**Mr. K. Ahmed:** Then what is the meaning of cess?

**Mr. B. V. Jadhav:** That is local revenue, municipal revenue. That is my reading of the sub-clause. I may be wrong.

**The Honourable Sir Brojendra Mitter** (Law Member): That is misreading.

**Mr. B. V. Jadhav:** Now, with regard to sub-clause (g), my remarks are almost the same as those that I made with regard to the other sub-clauses. "To induce a public servant", and so on, that is a clause about picketing, and I do not think that any provision is needed here, because the public will be sufficiently protected under the previous clauses and any article in a newspaper will not be of much use.

Then, Sir, with regard to (h), I have got a particular objection to it, because the fear entertained is sufficiently covered by section 153-A of the Indian Penal Code.

With regard to (i), I need not stress the point, because my remarks are almost the same.

Therefore, it will be seen that the provisions of this clause are not at all necessary. They are superfluous, and, as has been pointed out, the inclusion of these sections will only give a handle to the subordinate authorities to attach presses and to recover heavy fines or to ask for heavy deposits and to forfeit them. In this way the whole Press will be disorganised; it will be demoralised, and the clause will stand in the way of the right kind of political education of the people. Government may desire to suppress the Press altogether, but they should also realise at the same time that in these days it is not possible to gag the Press at all, and any such attempt at gagging the Press will simply rebound and perhaps it may injure Government the most. People ought to be properly educated through the Press and then alone discontent will subside. If this is stopped, then discontent may boil and burst the vessel. With these few words, I support the amendment.

**Mr. P. Macqueen** (Madras: Nominated Official): Sir, in rising to oppose this motion, I should like to make plain my own personal position with regard to Press legislation. As an Englishman, I dislike Press legislation very strongly, and I dislike section 16 of this Bill, but, at the same time, as a practical man, I realise that we are not living in a terrestrial paradise and we have very often to do things which we may dislike.

Now, in approaching the subject of these Press clauses, it appears to me that Honourable Members on the other side of the House have put forward two main arguments. The first is that there is no real necessity, on the facts of the case, to legislate at all, and the second is that even if there is necessity, the clauses of the Bill are excessive or abnormal and are unduly repressive, and I do not think that any Member on this side of the House has as yet taken up the challenge that was thrown out by my Honourable friend, Mr. S. C. Mitra, that there was a lack of evidence to justify any drastic action on the part of this House. Therefore, Sir, with the permission of the House, I should like to read a few extracts from vernacular newspapers that have been published in the Presidency from which I come, namely, the Madras Presidency, and perhaps the argument will be re-inforced when Honourable Members realise that the Madras Presidency always has been and is now much less touched by political agitation than probably other provinces in India, and if this sort of thing can be published with impunity in Madras, one can imagine what kind of material will be found in the papers published in other provinces. Now, the first extract that I should like to read to the House is an article that appeared in the *Krishna Patrika* of Masulipatam published on the 28th March, 1931. It is an instructive article, because it exhibits more than one kind of material which Government cannot possibly permit to appear in the public Press. It begins with a sort of vague general appeal to the religious passions of Hindus, and, towards the end of that article, it holds up to admiration those persons who were convicted and sentenced for murder in the Lahore trial.

**Mr. B. Sitaramaraju:** May I interrupt the Honourable Member and ask him whether that article was not written in Telugu? The Honourable Member is reading an English translation? Whose translation is that?

**Mr. P. Macqueen:** Yes, Sir; the extracts which I am going to read are translations which, as I have said, are from the vernacular papers.

**Mr. B. Sitaramaraju:** Translation made by Government, is it not?

**Mr. P. Macqueen:** Translation made by Government, certainly.

The article opens in this way:

"Darkness thickens before it is dawn. Where is the wonder that conditions are becoming more and more critical in the country? Believe that the chariot of the Sun-God is coming piercing through the veil of darkness. See how the flames from the funeral pyre that began blazing at the cremation ground on the banks of the Sutlej with streaks of blood have been enveloping the whole country like a huge conflagration! Are the seven lakhs of villages going to fall a prey to that world-destroying fire? Will this darkness accompanied by flames, like the Goodness Kali dancing on the body of Siva forgetting herself in the madness of her death-dance, devour that embodiment of peace, too?"

The reference in the last sentence is probably to Mahatma Gandhi.

**Mr. B. V. Jadhav:** May I interrupt the Honourable Member and ask him under what clause of the new Bill that will be punished?

**Mr. P. Macqueen:** I take it that that would be punishable under the Indian Penal Code.

**Mr. S. C. Mitra:** That is it.

**Mr. B. V. Jadhav:** Not under the provisions of this clause.

**Mr. P. Macqueen:** I am sorry I cannot answer that question off-hand. What is objectionable in this passage, apart from the application of the law, is the fact that it would inflame passions and is likely to arouse in the minds of the people, who read it, hatred and contempt towards the Government as established by law. Towards the end of the article we find this:

"Why should Lord Irwin cause the Lahore heroes to climb the gallows and plunge the country in such a state of fury without showing any mercy to them?"

Here persons convicted and sentenced to be hanged for murder are described as heroes! This is an infringement of the Press (Emergency Powers) Act, 1931,—sub-clause (b) of section 4 (1). Here is an article which appeared on the 11th January last in a newspaper called the *Satyagrahi* at Nellore. I will just read one or two sentences from this to give Honourable Members an idea of its general tenor:

"The demon of authority is now making its dance of death in our country in the most wonderful and horrid manner. . . Truth has no place. . . As for the authorities, they make no distinction between young or old, man or woman, literate or illiterate, and their business is to humiliate innocent people calling them foul names and beating them with lathis and to open fire on them and kill them."

What is likely to be the state of mind of people reading and believing such statements as this about the Government? I do not want to weary the House with too many of these extracts, but perhaps the next one would be of special interest, because it deals with a debate that was held in this Honourable House in the Simla Session:

"No civilised government..... "

—This is from *Mathurbumi* of the 17th September, 1932—

“No civilised government will adopt a policy of cruel treatment towards persons after they are put in prison, however grave their offences might have been. But such moral principles will not affect our Government. . . . Though Mr. Lahiri Chaudhury's adjournment motion in the Legislative Assembly in connection with this matter was finally withdrawn, it abundantly reveals the cruel mentality of the Government towards political prisoners.”

Then, Sir, one of the activities which it is the intention of clause 16 to prevent is the incitement of persons to refuse payment of taxes. There has been recently the introduction of re-settlement in the districts of Kistna and Godavari in the Madras Presidency, and a newspaper, called *Ryot Patrika*, published an article on the 17th July, 1931, which finishes with these words:

“Ryots must take a vow to fight even unto death, unless the enhanced settlement rates are withdrawn. They must carry out the constructive programme laid down by the Congress, organise ryots' associations, acquire national spirit and strength and be prepared to try to withhold the payment of the enhanced rates imposed by the Government.”

That comes under sub-clause (f) of clause 16. I do not think, in the short time at my disposal, I need read any further extracts. I should like to just touch upon one point, namely, the effect which such publications are likely to have on the people who read them. There seems to be a tendency to visualise the ordinary newspaper reading public as an honourable and cultured Member of this Assembly sitting up in bed in the Western Hostel, sipping his morning tea and languidly turning over the pages of the *Statesman*. That may be one part of the newspaper reading public, but we have to remember the semi-literate working men of our great towns or the almost entirely illiterate cultivators in villages, perhaps 20 or 30 miles away from the nearest railway station or telegraph office, who gather round the village *mantapam* in the evening and listen while the little Brahmin schoolmaster reads out extracts from a vernacular newspaper. Now, supposing they hear continual attacks upon Government, imputations of evil motives, incitements to refuse payment of taxes, and so on.—and they have, we know, an exaggerated reverence for the printed or written word,—what is likely to be the effect of having uncontradicted statements of that sort poured into their ears?

Now, Sir, my Honourable friend, Mr. Jadhav, made a slight excursion into the history of Press control in this country, and, if I understood him correctly, he said that somewhere about the eighties of the last century the policy of the Government was to keep the Press free from control, and today that policy has changed in the opposite direction. I entirely deny the accuracy of that statement of the history of Press control in this country. The fact is that from the year 1835, that is to say, for the best part of a century, the consistent policy of the Government has been to maintain the Indian Press as free from control as possible, but not once, nor twice, but three times, circumstances have compelled them to impose or re-impose executive control. The first occasion was, as Mr. Jadhav referred us to, in 1878, when the Vernacular Press Act was passed, and it was then repealed four years later. The second occasion was in 1908 and 1910 when the Indian Press Act was passed. Then, 10 years later, or 12 years later, Government again decided that they would remove the restrictions on the Press; that was in 1922. Unfortunately, the anticipations of the Press Laws Committee and the Government which accepted



[Mr. P. Macqueen.]

the recommendations of that Committee in 1922 have not been justified by subsequent events.

Now, Sir, some guidance can perhaps be had in considering the matter in all its aspects if we look at the Press laws of other countries. I have heard it said several times in this House that such and such an item of legislation is all very well for a self-governing country, but will not do for India, and I have heard the argument put round the other way. But what do other countries do in the matter of Press control? Practically every civilised country in the world possesses a detailed Press Law, but they vary in the extent of powers which are given to the executive. With the exception of England, every country of any importance in the world has a Press Law. In Italy, for example, a country in which—like India—the sentiment of national unity is recent and more than ordinarily self-conscious, the Press Law practically hands over the control of the Press to the Prefect of the province who is analogous to the Collector or Deputy Commissioner in an Indian district. Without his permission, no newspaper can start publication. He can issue a formal warning and, if this formal warning is ignored on more than two occasions, he can suppress the paper altogether. There is an appeal certainly. The appeal is to the Minister of the Interior. Or take the other great Asiatic countries. In China, the Press is subject to a rigid and unblushing censorship controlled by the police. What do they do in Japan? In Japan, every newspaper is bound to furnish security, whether it is a newly started publication or one of long standing and there is a censorship or executive control in all matters concerning Military, Naval and Foreign Affairs. I do not want to weary the House by quoting the kind of matter which is defined in these Press Laws as objectionable, but I can assure Honourable Members that if they care to look into books on this subject, they will find that it is extremely comprehensive and, by contrast with foreign definitions, our own definitions appear almost timid and meticulous.

Now, Sir, I shall not go into detail with regard to clause 16. I would just like to look at it from the broader point of view. Clause 16 contains seven sub-clauses and, at first sight, they may appear to be particularly drastic, but actually these clauses contain very little that is new. The old Press Act of 1910, which was repealed in 1922, contained six definitions in section 4 and these have been repeated with very little change in the present clause. There are other additions which come almost directly from the Indian Penal Code, well-known sections like 124A and 153A and all that is really new consists in three items, first the provision adding Airmen and Police to officers of the Army and Navy in the first sub-clause and then the provisions relating to interference with recruitment for the Police which appears in sub-clause (i) and which is more or less consequential on clauses 2 and 3 of the Bill and, thirdly, the provision with regard to the incitement to refuse payment of taxes. This last provision, Sir, does not seem to require very much special justification. Civilised States are based upon a triple foundation, first, the armed forces of the Crown, secondly, the Courts of law and, thirdly, and this is the essential condition of the other two, taxation and finance. The classical method of attempting to overthrow Government has so far been an attempt to debauch or destroy the Army and Navy or an attempt to paralyse the action of the Courts and it has remained for the protagonists of the civil disobedience movement to attempt by severing the fiduciary tap-root, to bring the tree of Government to the ground.

Sir, I have attempted to show by quotations and extracts from actual newspapers that there does exist an urgent necessity for some control of the Press and I have referred, briefly I hope, to the history of the Press control in this country and to the Press Law in certain foreign countries, to show that there is nothing in the provisions of clause 16 which is unduly oppressive or which is in any way abnormal. Sir, the liberty to print attacks on Government, to impute evil motives to Government, to incite to refusal to pay or to acts of violence—this liberty is not the true freedom of the Press and I would earnestly appeal to all Honourable Members, in considering this question, to set aside sentiment, not to approach it in the manner of cross-examining pleaders trying to demolish the opponent's case nor yet of hide bound doctrinaires, but to approach it as practical men who are faced with a problem that calls urgently for solution.

**Raja Bahadur G. Krishnamachariar** \* (Tanjore *cum* Trichinopoly; Non-Muhammadian Rural): Sir, at this time of the day, with a debate that has been dragging on for so many days, I shall try my best to finish as early as possible, so that the agony may be over. Clause 16 is so worded that if I want to I can go on speaking for hours and hours, but I shall take only two or three sub-clauses. Mr. Macqueen said that this was only a repetition of various Acts. I would invite the attention of the House to three sub-clauses and ask the Government to delete them and, if they do not agree, then to reject the entire clause. Now, sub-clause (d) says:

"to bring into hatred or contempt His Majesty or the Government established by law in British India or the administration of justice in British India or any class or section of His Majesty's subjects in British India or to excite disaffection towards His Majesty or the said Government."

Now, Sir, this clause has been the subject of judicial decision from the time when the late Mr. Tilak was prosecuted in Bombay for his alleged first act of sedition. This was one important clause that was the subject matter of discussion then. There were other clauses, but the most important is the one which I have read out. That clause is to bring into hatred or contempt the Government established by law in British India. Now, I should like to know when is a person supposed to do that. Supposing I do something which brings into hatred a policeman in the corner of the street. Is it bringing the Government established by law into contempt? I am not drawing on my imagination. This very point was put before Mr. Justice Strachey in the Bombay High Court seriously in the Tilak trial. Then the words in this clause (d) are:

"to excite disaffection towards His Majesty or the said Government."

Now, what is meant by "disaffection"? Is it absence of affection, or what? Where is it defined? When is a man supposed to have  
**3 P.M.** created disaffection? That, Sir, is the difficulty with which one is faced, but the difficulty is in no way lessened by the two *Explanations* that have been added to the clause:

"*Explanation 2.*—Comments expressing disapprobation of the measures of the Government with a view to obtain their alteration by lawful means without exciting or attempting to excite hatred, contempt or disaffection shall not be deemed to be of the nature described in clause (d) of this sub-section."

Now, the difficulty is this. A man disapproves of a measure and that man comments on it according to his temperament, strongly or in somewhat less strong and mild language, and once he does that, he comes very dangerously near the provision—that he creates or attempts to create hatred,

[Raja Bahadur G. Krishnamachariar.]  
contempt or disaffection. Because a man must create a sort of contempt as against the person whose acts he exposes as being against the fundamental principles of justice, else how on earth is he going to disapprove of the measure in a way that does not involve to a certain extent his crossing the border? Directly he does that, he is pounced upon by the criminal Courts and sentenced. Another *Explanation* to the same clause says:

"Comments expressing disapprobation of the administrative or other action of the Government without exciting hatred, contempt or disaffection. . ."

Now, that is a rather very important *Explanation*. But what that means, no one knows. Perhaps the Government know. Perhaps the Courts will say that when the man is prosecuted. Now, I am laying so much stress upon this, because the point is important.

Mr. Macqueen was referring to the re-settlement in certain districts of the Madras Presidency. There are certain irrigation projects also in the Madras Presidency and one of them is the Mettur project. Now, so far as this settlement of the Godavari and Kistna districts is concerned, there is a rather interesting episode which my friend, Mr. Macqueen, has not, I hope, forgotten and that is that the people did the very thing that this Act wants that they should not do, namely, they declined to pay the enhanced tax. The uproar was so great and so much trouble was apprehended that the Government appointed a committee, to go into the whole thing and the latter found that the people really could not afford to pay this enhanced rate. Now, if the people had not threatened the Government that they would not pay the enhanced rate, Government would never have come forward to reconsider the settlement, as the committee, in spite of the trouble they took in order to find out favourable facts from the evidence, if any, and in spite of the action of the settlement officer, was compelled to report that the people were not able to pay the enhanced rate. There is another episode and a more instructive one and one which I think gave the lead to this sub-section in the story of Bardoli. That is a long story. There is a book as thick as that in which is related the entire story, but I can sum up the history of it in three sentences. In this book, it was not printed by Government nor was it the authority of Government, there is a very instructive paper which shows that the gentleman who had been appointed settlement officer took into consideration everything that had been settled at the previous settlement and all the facts and considerations which had been urged in support of enhancing the settlement at that time. In enforcing the enhanced settlement rate, old women were turned out of their cottages, the people's buffaloes were attached, as also the very vessels used for cooking food. Then there was such a great trouble, and the non-co-operation in connection with the payment of taxes went so far that either from compulsion from the Government of India or on the initiative of the Local Government, a committee was appointed. That committee was presided over by an Englishman. Now, here the true spirit of the Englishman came out. The result was that a report, which cannot be more damaging than if it was written by one of the so-called Congress agitators, was produced. Every aspect of the action taken by the settlement officer was condemned, not by an agitator, not by Gandhiji, but by an English official—who, I believe, was occupying the position of a Commissioner of a Division. The point of my remarks is that all these things

would not have come into existence, if the people had not agitated and threatened that they would not pay this tax, these measures would not have been taken.

Sir, in the Tanjore district of the Madras Presidency, we are supposed to be going to be benefited by a huge project, called the Mettur project, which started with an estimate of two crores and, as usual, developed into seven crores and I should not be surprised if it would go up in the end to thirteen crores. I do not by the way know why these estimates always go up so high from their original figure. People always try to find out the reason, but fail. One reason put forward was that there being the depression in trade, the execution of the orders could not be secured in time. However, that is a minor point. The fact of the matter is that the settlement rule is, that for 30 years they cannot enhance the rates of assessment, once they fix the rate of assessment at the time of settlement. The rate is high enough, but that is another story, I won't trouble this House with it now. Sir, the settlement operations have bled the people practically white in connection with the land revenue and I feel very strongly upon it. However, we have got to pay, and we do pay. Now, meanwhile this Mettur project comes into existence. We were promised water in July, 1932. Now, July, 1932, has gone, but water has not come—that is also another story. (Laughter.) I cannot help telling you these stories. I am surrounded by stories created for the edification of this House by the Government themselves. (Laughter.) What can I do? They have now fixed extra assessment under cover of this cess or other. Sir, this assessment rate comes into existence, almost immediately and what is it that we are told? We would be compelled to pay, from next year, from the date of collection of the taxes from January, we will have to pay the enhanced revenue, although the original period of 30 years has not expired. There have been meetings held all over the Tanjore district and what shall we do except to say that we won't pay the extra rate? Government say—not of course in the regular way of declaring that the rate has been enhanced, but by a crooked way, but you have got to pay all the same, and which really comes to the same thing. Sir, the passing of this Bill would prevent us from stating that I would not pay this money. Now this is how the question of "incitement" comes. I am a large landholder and I preside over a meeting and I say, for instance, "I am not going to pay this sum". Now, everybody knows that I say that and so he also says he won't pay, and this is how the "incitement" comes in effect. If this clause had appeared as clause 1, I would have been able to give very many instances to show that this clause should be completely rejected. I will stop here for it is already time. Sir, I oppose this clause very strongly.

**Sir Abdur Rahim** (Calcutta and Suburbs: Muhammadan Urban): Sir, I just wish to say a few words regarding this clause 16. The most mischievous words in this clause are as anyone can see "which tend directly or indirectly to seduce, to bring into hatred, and to put any person in fear" and then a whole list of that sort is given. Now, I have had some experience of the difficulty which these words "tend directly or indirectly" can create and I defy anyone to say that it is possible for any Court to come to a proper conclusion as to whether a certain writing tends directly or indirectly to do a certain thing or not. Throughout the Indian Penal Code or any other Criminal Law which has not come into existence within

[Sir Abdur Rahim.]

the last few months or years, this phrase does not occur. It is the indefiniteness and the extremely comprehensive character of these words that give special point to the mischief which a clause like this is likely to create. Now, what will the Courts have before them? They will have certain writings of a newspaper. How can any Court come to any conclusion whether those writings do or do not tend directly or indirectly to produce a certain effect. The Court is habituated to construing words according to their ordinary meaning. Now, so far as the construction of ordinary words in their ordinary sense is concerned, that is undoubtedly the function of the Court and the Court has to discharge that duty every day. But when it comes to asking the Court to say whether certain words tend directly or indirectly to produce a certain effect or not, I say it is an impossible task to saddle the Court with. The Court, under those circumstances, must accept the judgment of the executive. It has no option at all. Sir, let us take an instance. Supposing a newspaper which is not favourably looked upon by the Executive Government happens to praise the conduct of a certain police force by saying that that force is extremely loyal to the Government, it is quite possible for a person to say that by suggesting that the Indian police force is loyal to the present Government, it indirectly reflects upon the character of that force. Is not that possible? That is the sort of danger which a law ought to guard against. On the other hand, if this is to be enacted into law, we are really giving power to the executive to say whether they approve of certain writings or not in the sense whether they tend directly or indirectly to produce a certain result. And then the Court is absolutely powerless to say: No, the executive authorities are wrong. You can produce a certain number of other writings of that newspaper, but how can other writings throw any light upon the writing in question. It is impossible, and if you ask any reader of a newspaper to say whether, in his opinion, it does not tend directly or indirectly to produce a certain result, then, if he is an honest man, it will be impossible for him to say whether it does or does not. Sir, by enacting a provision of this character, I submit, that the executive are not really forwarding the cause of justice or protecting the interests of law and order. It will be really holding out a threat to the entire Press of the country. If they happen to write unfavourably of certain measures of Government or of the conduct of the Government as a whole, then there is that sword hanging over their heads and they are liable to be penalised. That can be the only effect and, I submit, that this is not the way of controlling the activities of the Press and directing it in the right channels. You are simply paralysing the Press and if that is the policy, the Government are perfectly entitled to enact a measure of this sort. But if the policy be to prevent the propagation of certain ideas which lead really to incitement of certain classes of crime, then that policy cannot be achieved by a measure of this kind. If the Government really think that the Press in this country is so outrageous and it does so much harm to the country that it must be muzzled or controlled in the way they like, then the only remedy from their point of view is to establish censorship. Censorship would be indeed better, because before a writing goes to the public it will be criticised by Government who will go through it beforehand. Government officials will then say how much of it is objectionable and how much is not. But how can a newspaper foresee whether a certain article will be liked by Government or not. It will be impossible for any man to foresee that. Besides it is not the

responsible editor of the newspaper that writes everything in a newspaper. There are so many correspondents who contribute articles to it. It will be impossible for any newspaper editor to carry out his duties honestly if we have a clause like this and it will lead to any number of prosecutions if the Government so chose. It will also prevent all frank and honest criticism of the actions of Government. I doubt if the Government think that we ought to have as little criticism of public measures as possible. If that is not their object, then I submit very respectfully to the Government and to the House that they ought not to put on the Statute-book a law of this indefinite and dangerous character. I use the word "dangerous" advisedly, because it has a tendency to suppress the entire liberty of the Press and I do say that in the circumstances of any civilised country at the present day it is not a desirable thing to achieve.

**Mr. H. P. Mody** (Bombay Millowners' Association: Indian Commerce): Sir, I will address myself very briefly to the general aspect of this question. My Honourable friend, Mr. Macquoen, who just spoke and to whom I have listened with great pleasure told us about the control which exists in various countries over the activities of the Press. I agree with a great deal of what he said in that connection, but I must draw two distinctions which he has apparently ignored. In the first place, the profession of journalism in this country is harder, more unremunerative and dangerous than probably anywhere else. In the second place, the safeguards which exist in other countries which prevent the straining of the law and miscarriage of justice do not exist to the same extent in this country. Therefore, it would be idle to draw any analogies from the control which is exercised over the Press in other parts of the world.

Sir, so far as the Press in India is concerned, everybody recognises that there is a certain section which indulges in a license which ought never to be permitted. But if I have to choose between permitting a little license to an unbridled section of the Press and the total elimination of all expression of honest opinion, then I would certainly plump for the former. It is idle to say that penal laws affect only the guilty, and that the honest man, the man who pursues his profession in a straightforward way has nothing to fear. I say, it would be idle to pretend that in view of the fact that in the past few years many innocent persons have been drawn into the net along with the guilty. After all, the most effective way of controlling the license of the Press is not by imposing more and more rigid restrictions. You can do it up to a point, but you cannot carry it to the point of practically extinguishing all honest expression of opinion. Why do not Government organise their publicity department in a more rational and better way? The sort of publicity which Government give to their acts and policies would not impress even a fourth form schoolboy. Let Government, if they want that a gullible public should not be misled by the vapourings of the irresponsible section of the Press, put a couple of live journalists in charge of the publicity department both at headquarters and in every provincial Government. As a matter of fact, when one contemplates the all-embracing comprehensiveness of the activity of Government in this country, activities which range over the whole of our acts and omissions, one is appalled at the inadequacy and inefficiency of the publicity which Government give to their actions and their policies even in matters of the most vital importance. Take the Ottawa Pact, the most

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recent example. Government leave the public to form its own judgment on insufficient materials, and you cannot find fault with the public if it forms its judgment by what it sees in the papers. If I repeat, Government have only to depend on more and more rigid control of the Press in order to suppress the mischievous activities of a section, it would be a dangerous and a one-sided policy which will neither pay them nor will it be effective. The only cure is the growing healthiness of public opinion, and in many directions those healthy influences are at work. Our provincial Legislatures are in Session for many months of the year. The officers of Government have various opportunities of meeting people and explaining to them the exact import of various Government policies; and in several other directions the public has got sources of education and information which were denied to us in the past. These forces being at work, it is, I think, an absolutely retrograde step to think of imposing the sort of drastic control which this clause proposes to introduce. It is all very well to say that you are aiming at the guilty, but the honest journalist has a right to be allowed to pursue his avocation fearlessly, and I want to know if, with such all-embracing provisions, the honest journalist can ply his profession without constant fear of the law. I, therefore, feel that while up to a point control of the Press is essential, and that it is a recognised form of Government activity in all civilised countries, you cannot go beyond certain recognised limits, and if Government find that control of the Press has proved ineffective, there are other ways in which they can make it effective than by continually tightening up the reins of the law and punishing both the innocent and the guilty.

**Mr. Amar Nath Dutt** (Burdwan Division: Non-Muhammadian Rural):

Sir, I also support the amendment for deletion of this clause. The clause seeks to add more than half a dozen sub-clauses to section 4 of Act 23 of 1931. Sir, I think the power which we gave to Government by the Act of 1931 was more than what was necessary, but after having that power they want to have more powers. There is a proverb in Bengali which says that the more you feed a boy the more he wants. So is the case here with Government. In spite of our objection and in spite of our protests, they had the Act of 1931 passed in this House which was against the freedom of the Press. Now, seeing that they have got certain powers, they want to add to those powers. With respect to this, I think the legal aspect of the difficulty of administering the law, as worded here, has been given out by one whose authority here about the difficulties of administering the law will not be challenged by anybody,—namely, the ex-Chief Justice of the Madras High Court who had to administer the law as it stood. I will not waste the time of the House by dilating on these points, but what I want to submit is that in their own interest they ought not to try to have such powers as these; and I can do no better than quote the words of a great statesman with respect to the Press Law in India which will convince them at once that what they are attempting to do now is not to their own interests. This is what Mr. Gladstone said in the House of Commons with regard to the views of the Duke of Buckingham, a former Governor of Madras:

"He thinks that by this fidgetty attempt to bolster up power by a law of an arbitrary character, the Government of India were not gaining strength, but were bringing upon themselves weakness."

These words would apply with greater force at the present moment to the action of Government in trying to muzzle the Press, the fourth estate. Then again certain allegations have been made against the Vernacular Press of the country. With respect to that, Sir, we must admit that the Press has become far better than what it was in those days, and the language in which Mr. Gladstone characterised the Vernacular Press of those times will bear repetition here. He says:

"In many cases it might be . . . folly and levity of the things written, but in which indications might be found of intelligence and right-mindedness. I hold the Vernacular Press to be a useful indication of the under-currents which may be running through the mass of Indian population. But if any serious spirit of disaffection or hostility is increasing among the people, indications will float to the surface among the Vernacular papers as surely as the dross is thrown to the surface of molten metal. Systematic attempts to excite hostility or sedition I would prosecute"—that is what *the Duke of Buckingham says*—"but for this the present law provides, in the Penal Code and to my mind sufficiently; and in an emergency, should any such arise, there is the same power of the State to restrain a man who writes as a man who speaks it."

That being so, I submit that to deal with all these offences there are ample powers if you want them save and except powers which should not be vested in the executive such as "to encourage or incite any person to interfere with the administration of the law". We do not know what is meant by administration of law in this country. Even lathi charges and destroying properties and temples also are considered probably part of the administration of law. That being so, I submit, the clause is so wide that we should not allow it to be inserted in an already too much rigorous law which is being attempted to be enacted. With these words, I support the deletion of the clause.

**The Honourable Mr. H. G. Haig:** Sir, we have heard a varied attack on the provisions of this clause and the principle of it. Now I should like to address myself in the first place to the question of why these powers are necessary and the answer is very simple: the proved ineffectiveness of the existing law. Under the existing law—and by existing law I do not refer to the powers we have taken by the Ordinances, but to the ordinary law—a paper can only be proceeded against by a prosecution of the editor and the publisher. For many years the Government, who take no pleasure in exercising this control over the Press, endeavoured to deal with the Press by a system of instituting prosecutions in the most extreme and outrageous cases, but that system demonstrably broke down in the years during which this agitation which culminated in the civil disobedience movement was gathering strength. There are two main reasons why the ordinary law was ineffective. In the first place, prosecution for sedition is a very elaborate proceeding as Honourable Members well know. It takes a long time; it involves considerable expenditure, and all that time there is nothing to prevent the newspaper going on day after day producing articles of a similar character. In the second place, when a conviction is obtained, in very many cases it is obtained against a man of straw. A newspaper which deliberately sets itself the task of stirring up hatred and contempt against the Government frequently and in some provinces almost invariably provides itself with a dummy or jail editor. A man is paid a small sum of money and is made to pose as the editor for the purposes of going to jail when a conviction is obtained, and the man who is really inspiring the policy of the paper and writing the articles sits safely in the background. By those methods



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one cannot really control a press which is determined to pursue a policy of stirring up hatred and contempt against the Government. Under different conditions these powers for which we now ask may not be required. I hope and trust that after some years they will not be required. If this country will settle down to a new constitution and work it in a constitutional way, these powers will not be required. But, at the present moment, in the conditions through which we are going, they are most essentially needed.

Now, we have heard in the very admirable maiden speech of Mr. Macqueen, on which I should like to congratulate him—we have heard a practical story of how these charges against the Government, these false rumours, affect people, the impression that they create in the villages and among the less educated population. My Honourable friend, Mr. Mody, attacked us vigorously for not meeting these charges, these false rumours, by the issue of communiqués. I am accustomed to hearing attacks on our publicity department. Everybody is ready with their criticisms, with their suggestions, except those who have to deal with the problem in a practical way and they realise the difficulties. In the first place, it is difficult to get into a deliberately hostile Press the point of view of the Government. It is an exceedingly difficult task. The House must remember that we are not dealing with what one might call an impartial Press, as one sees it perhaps in a country like England, where you have one side and the other side, and there is not the slightest difficulty in getting into the Press effective representation of any reasonable view. But when the great bulk of the Press is ranged—as we must admit it is ranged—against the Government it is very difficult to get effective publicity for the Government point of view; and, in the second place, surely it is a commonplace that it is exceedingly difficult to overtake a lie. Government can publish a contradiction in a communiqué, but the mischief is already done by the original false statement or insinuation . . . .

**Mr. H. P. Mody:** Why are you not first in the field?

**The Honourable Mr. H. G. Haig:** Because it is quite impossible for us to anticipate the various misrepresentations of our action that a very fertile Press pours out. We are not afraid of the truth; we are not afraid of honest criticism; the Government of India and all the Local Governments are by this time very fairly inured to criticism; but we are afraid of falsehoods, we are afraid of dishonest and malicious criticism; for in this country it does an infinity of harm. I do not think that the Press need be seriously alarmed; that is to say, the honest and well conducted Press, and I do not suggest for a moment that there are not a large number of admirably conducted newspapers in this country.

My Honourable friend, the Leader of the Independent Party, accused us of drafting this clause in very wide terms and referred in particular to the words "directly or indirectly". I think in the Select Committee we did a good deal to meet that criticism. It is no doubt true that if the words stand entirely unmodified, "directly or indirectly bring into

hatred or contempt" (which is perhaps the most important of the sub-clause), they may be difficult to interpret. But realising the force of that criticism, we inserted certain *Explanations*, and those *Explanations* make it quite clear that certain comments do not in fact come within the terms of sub-clause (d). Those are *Explanations* which are taken from the existing law of sedition and will not, I think, as my friend, Raja Bahadur Krishnamachariar, suggested, present insoluble problems to the High Courts, for they have in fact formed the subject of numerous and elaborate rulings already.

It has also been said that by enacting this clause we shall be sitting on the safety valve. That is the last thing we want to do, and if the passing of this clause really closed the safety valve, I should not be proposing it. We are doing what we really consider necessary in order to check most dangerous incitements to violence, revolution, disobedience of the law and all kinds of feeling of hatred and contempt of the Government. But, Sir, that is not or should not be the normal material that is put forth by the Press. There is nothing to prevent the Press expressing their views frankly and vigorously, as they do at present, on all the main topics of the day, on the constitutional issues, on the untouchability question, on the failures of the Government, on the proceedings of this House, on the release of Mr. Gandhi, and many other such topics. We have the advantage of the views of the Press on all matters that really concern the country. Therefore, I submit that we are very far from sitting on the safety valve. The safety valve is working in full blast, shall I say.

Well, Sir, I do not think I need add much more. My Honourable friend, the Leader of the Independent Party, disliking our provisions suggested that he would prefer a censorship. I do not believe, however much editors of the newspaper press of India may dislike the provisions of this Bill, I do not think they would ask for a censorship. If they are in any doubt as to whether particular matters might come within the provisions of this clause, it is always open to them to seek advice and they will always receive it. But, Sir, that is coming rather near a censorship, and for that very reason my information is that they do not often seek that advice. Therefore, I suggest that the alternative suggestion of my Honourable friend, Sir Abdur Rahim, would not be welcomed by the editors of the Indian Press.

My friend, Raja Bahadur Krishnamachariar, took special exception to sub-clause (f), in that it prohibited the preaching of a no-rent or no-revenue campaign, and he cited the case of Bardoli. Well, Sir, the Bardoli question was one of great controversy and complication, and I do not myself accept his account of it as giving a complete narrative or explanation of what happened. But, Sir, I would ask him to reflect on the moral of Bardoli. The cultivators in Bardoli, after conducting an agitation which, I admit, did go beyond constitutional limits and did include refusal to pay revenue, eventually convinced the Government that there were grounds for modifying their assessment. And what happened after that? The cultivators, I am afraid, misunderstood the position of Government, and thought that they had obtained this concession not by convincing the Government that their case was a good one, but by threatening the Government and by adopting a policy of refusing to pay their revenue; and the result was that two or three years later, for no

[Mr. H. G. Haig.]

reason at all, they tried once more to refuse to pay their land revenue and thought once more by following these same means they would secure the same results. And did they secure the same results, or did they secure for themselves extreme suffering, useless suffering, and, in the end, utter failure? No, Sir, we cannot accept as a legitimate method of agitation organized refusal to pay Government dues. I do not think, Sir, it is necessary to add anything more. I oppose the amendment.

**Sir Abdur Rahim:** May I say one word?

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Is it a personal explanation?

**Sir Abdur Rahim:** Yes, Sir. I never suggested for one moment that the Government should institute censorship. I should be the last person to make a suggestion of that character. I said all that in order to show how far this Bill went, that it would be much better to go further and have censorship if they wanted to suppress the liberty of the Press.

**The Honourable Mr. H. G. Haig:** I am sorry I misunderstood the Honourable Member. It was merely his method of expressing his extreme repugnance to this Bill.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question I have to put is:

"That clause 16 of the Bill be omitted."

The Assembly divided:

AYES—38.

Abdul Matin Chaudhury, Mr.  
Abdur Rahim, Sir.  
Azhar Ali, Mr. Muhammad.  
Badi-uz-Zaman, Maulvi.  
Bhuput Singh, Mr.  
Chandi Mal Gola, Bhagat.  
Chetty, Mr. R. K. Shanmukham.  
Chinoy, Mr. Rahimtoola M.  
Dutt, Mr. Amar Nath.  
Gour, Sir Hari Singh.  
Gunjal, Mr. N. R.  
Jadhav, Mr. B. V.  
Jha, Pandit Ram Krishna.  
Jog, Mr. S. G.  
Krishnamachariar, Raja Bahadur G.  
Lalchand Navalrai, Mr.  
Maswood Ahmad, Mr. M.  
Misra, Mr. B. N.  
Mittra, Mr. S. C.

Mody, Mr. H. P.  
Nihal Singh, Sardar.  
Pandian, Mr. B. Rajaram.  
Parma Nand, Bhai.  
Patil, Rao Bahadur B. L.  
Ranga Iyer, Mr. C. S.  
Reddi, Mr. P. G.  
Reddi, Mr. T. N. Ramakrishna.  
Roy, Rai Bahadur Sukhrāj.  
Sant Singh, Sardar.  
Sarda, Diwan Bahadur Harbilas.  
Sen, Mr. S. C.  
Sen, Pandit Satyendra Nath.  
Singh, Kumar Gupteshwar Prasad.  
Singh, Mr. Gaya Prasad.  
Sitaramaraju, Mr. B.  
Thampan, Mr. K. P.  
Uppi Saheb Bahadur, Mr.  
Ziauddin Ahmad, Dr.

## NOES—55.

Abdul Hye, Khan Bahadur Abul  
Hasnat Muhammad.  
Acott, Mr. A. S. V.  
Ahmad Nawaz Khan, Major Nawab.  
Allah Baksh Khan Tiwana, Khan  
Bahadur Malik.  
Amir Hussain, Khan Bahadur Saiyid.  
Anklesaria, Mr. N. N.  
Anwar-ul-Azim, Mr. Muhammad.  
Bajpai, Mr. G. S.  
Bhore, The Honourable Sir Joseph.  
Bower, Mr. E. H. M.  
Burt, Mr. B. C.  
Dalal, Dr. R. D.  
DeSouza, Dr. F. X.  
Dudhoria, Mr. Nabakumar Sing.  
Dunn, Mr. C. W.  
Dutt, Mr. G. S.  
Fazal Haq Piracha, Shaikh.  
Fox, Mr. H. B.  
Graham, Sir Lancelot.  
Greenfield, Mr. H. C.  
Gwynne, Mr. C. W.  
Haig, The Honourable Mr. H. G.  
Hezlett, Mr. J.  
Hudson, Sir Leslie.  
Ibrahim Ali Khan, Lt. Nawab  
Muhammad.  
Ishwarsingji, Nawab Naharsingji.  
Ismail Khan, Haji Chaudhury  
Muhammad.  
James, Mr. F. E.

Jawahar Singh, Sardar Bahadur  
Sardar.  
Lal Chand, Hony. Captain Rao  
Bahadur Chaudhri.  
Mackenzie, Mr. R. T. H.  
Macqueen, Mr. P.  
Meek, Dr. D. B.  
Metcalf, Mr. H. A. F.  
Mitter, The Honourable Sir  
Brojendra.  
Moore, Mr. Arthur.  
Morgan, Mr. G.  
Mukherjee, Rai Bahadur S. C.  
Nayudu, Rao Bahadur B. V. Sri Hari  
Rao.  
Rafiuddin Ahmad, Khan Bahadur  
Maulvi.  
Rajah, Rao Bahadur M. C.  
Rau, Mr. P. R.  
Ryan, Mr. T.  
Sarma, Mr. R. S.  
Schuster, The Honourable Sir George.  
Scott, Mr. J. Ramsay.  
Sher Muhammad Khan Gakhar,  
Captain.  
Singh, Mr. Pradyumna Prashad.  
Smith, Mr. R.  
Sorley, Mr. H. T.  
Suhrawardy, Sir Abdulla-al-Māmūn.  
Tottenham, Mr. G. R. F.  
Yakub, Sir Muhammad.  
Yamin Khan, Mr. Muhammad.  
Zulfiqar Ali Khan, Sir.

The motion was negatived.

**Mr. R. S. Sarma** (Nominated Non-Official): Sir, I move:

"That after *Explanation 4* to clause 16 of the Bill, the following Proviso be inserted:

'Provided that no action be taken against any newspaper without at least two consecutive warnings being given and disregarded'."

I do not think any speech is necessary to commend my amendment to the acceptance of the House. If any newspaper publishes  
4 P.M. indecent or objectionable matter, it is only due to it to give it one or two warnings to restrain it from publishing it and then to take action if the warnings are disregarded. Sir, I move.

**Mr. S. C. Mitra:** I support the amendment of my friend, Mr. Sarma. It is a very reasonable amendment. Being long in the journalistic line, Mr. Sarma has tabled it and as he is a Nominated Member, Government may be inclined to accept it. It is very difficult for the journalist to know what Government are taking exception to. In his last speech, the Honourable the Home Member said that in the provinces where there were officers charged with the duty of censoring, if they were consulted they were always agreeable to give opinion. I know personally that that is not a fact in Bengal. Some of the journalists and Press agencies complained to us that when they receive news from the mufassil they want to consult the Deputy Secretary to the Political Department as to what things are objectionable and, not infrequently, the gentleman in

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charge refuses to make himself responsible by giving any opinion. When there is a European officer, he is free in giving advice but when it is the lot of an Indian I. C. S. officer, he is probably afraid of the C. I. D. and he refuses to say whether it will be considered objectionable or not by the Government. I shall be very glad if the Honourable the Home Member gives an assurance in this House that it will be binding on the officers in the provinces who are charged with this function to say definitely what they consider objectionable. That will help a good deal; but in any case the amendment of Mr. Sarma is very reasonable. Before forfeiture or any drastic step is taken, the editors should be warned. It is known that editors are not generally the proprietors. The provision in this clause is so drastic that it is the proprietor or the joint stock company of shareholders that suffer. They should get a chance before Government take action under this law. So I support this amendment.

**Mr. N. R. Gunjal** (Bombay Central Division: Non-Muhammadan Rural): (Speaking in the Vernacular, the Honourable Member supported the amendment.)

**The Honourable Mr. H. G. Haig:** Sir, the normal practice in the administration of these Press provisions, I think I am correct in saying, is that warnings are given to newspapers before action is taken against them. But, Sir, I cannot agree to a Statutory provision that there should be one or more warnings before any action can be taken. The warning in the majority of cases may be useful and effective, but there are certain cases where the offence is deliberate and is known to be deliberate, where the warning would be entirely thrown away, and it is necessary in my opinion that the discretion of the executive should be retained to give warning in suitable cases, but in other cases to proceed to take action at once if the circumstances appear to warrant it.

Now, Sir, we have had some difference of opinion between two Honourable Members from Bengal as to what actually happens in that province. My Honourable friend, Mr. Mitra, said that though there was an officer whose duty it was to keep in touch with the Press, he was reluctant to give advice when asked for it. On the other hand, as far as I understood him, Mr. Sen, earlier in the debate, made it a matter of complaint that editors in Bengal were continually receiving warnings from, apparently, the same officer. I must leave it to the two Honourable Members to reconcile their statements.

**Mr. S. C. Mitra:** We are ready to reconcile it. It is not contradictory.

**The Honourable Mr. H. G. Haig:** When the Press Ordinance was introduced in 1930, I was present at a conference which Lord Irwin held with several well-known editors of Indian newspapers, and the difficulties that might arise in the administration of the Press Ordinance were fully discussed at that time. As a result of that discussion, we addressed a letter to Local Governments asking them to observe due care in the administration of the Ordinance. If it is any satisfaction to Honourable Members I should be glad to call the attention of Local Governments again, when this Act is passed, to the suggestions we made to them in 1930.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That after *Explanation 4* to clause 16 of the Bill, the following Proviso be inserted:

'Provided that no action be taken against any newspaper without at least two consecutive warnings being given and disregarded'."

The Assembly divided:

AYES—33.

Abdul Matin Chaudhury, Mr.  
 Abdur Rahim, Sir.  
 Anklesaria, Mr. N. N.  
 Azhar Ali, Mr. Muhammad.  
 Badi-uz-Zaman, Maulvi.  
 Bhuput Sing, Mr.  
 Chandi Mal Gola, Bhagat.  
 Dutt, Mr. Amar Nath.  
 Gour, Sir Hari Singh.  
 Gunjal, Mr. N. R.  
 Ismail Khan, Haji Chaudhury  
 Muhammad.  
 Jadhav, Mr. B. V.  
 Jog, Mr. S. G.  
 Krishnamachariar, Raja Bahadur G.  
 Misra, Mr. B. N.  
 Mitra, Mr. S. C.

Nihal Singh, Sardar.  
 Pandian, Mr. B. Rajaram.  
 Parma Nand, Bhai.  
 Patil, Rao Bahadur B. L.  
 Ramga Iyer, Mr. C. S.  
 Reddi, Mr. P. G.  
 Reddi, Mr. T. N. Ramakrishna.  
 Sant Singh, Sardar.  
 Sarda, Diwan Bahadur Harbilas.  
 Sarma, Mr. R. S.  
 Sen, Mr. S. C.  
 Sen, Pandit Satyendra Nath.  
 Singh, Mr. Gaya Prasad.  
 Sitaramaraju, Mr. B.  
 Suhrawardy, Sir Abdulla-al-Mámún.  
 Thampan, Mr. K. P.  
 Uppi Saheb Bahadur, Mr.

NOES—50.

Abdul Hye, Khan Bahadur Abul  
 Hasant Muhammad.  
 Acott, Mr. A. S. V.  
 Ahmad Nawaz Khan, Major Nawab.  
 Ahmed, Mr. K.  
 Allah Baksh Khan Tiwana, Khan  
 Bahadur Malik.  
 Amir Hussain, Khan Bahadur Saiyid.  
 Anwar-ul-Azim, Mr. Muhammad.  
 Bajpai, Mr. G. S.  
 Bhowre, The Honourable Sir Joseph.  
 Bower, Mr. E. H. M.  
 Burt, Mr. B. C.  
 Dalal, Dr. R. D.  
 DeSouza, Dr. F. X.  
 Dudhoria, Mr. Nabakumar Sing.  
 Dunn, Mr. C. W.  
 Dutt, Mr. G. S.  
 Fox, Mr. H. B.  
 Graham, Sir Lancelot.  
 Greenfield, Mr. H. C.  
 Gwynne, Mr. C. W.  
 Haig, The Honourable Mr. H. G.  
 Hazlett, Mr. J.  
 Hudson, Sir Leslie.  
 James, Mr. F. E.  
 Jawahar Singh, Sardar Bahadur  
 Sardar.  
 Lal Chand, Hony. Captain Rao  
 Bahadur Chaudhri.

Mackenzie, Mr. R. T. H.  
 Macqueen, Mr. P.  
 Maswood Ahmad, Mr. M.  
 Meek, Dr. D. B.  
 Metcalfe, Mr. H. A. F.  
 Mitter, The Honourable Sir  
 Brojendra.  
 Moore, Mr. Arthur.  
 Morgan, Mr. G.  
 Mukherjee, Rai Bahadur S. C.  
 Nayudu, Rao Bahadur B. V. Sri Hari  
 Rao.  
 Rafiuddin Ahmad, Khan Bahadur  
 Maulvi.  
 Rajah, Rao Bahadur M. C.  
 Rastogi, Mr. Badri Lal.  
 Rau, Mr. P. R.  
 Ryan, Mr. T.  
 Schuster, The Honourable Sir George.  
 Scott, Mr. J. Ramsay.  
 Sher Muhammad Khan Gakhar,  
 Captain.  
 Singh, Mr. Pradyumna Prashad.  
 Smith, Mr. R.  
 Sorley, Mr. H. T.  
 Tottenham, Mr. G. R. F.  
 Yamin Khan, Mr. Muhammad.  
 Zulfiqar Ali Khan, Sir.

The motion was negatived.

Clause 16 was added to the Bill.

Clauses 17 to 20 were added to the Bill.

**Mr. Lalchand Navalrai** (Sind: Non-Muhammadan Rural): Sir, I move:

"That after clause 20 of the Bill, the following new clause be added :

"21. That all the convictions made and sentences passed under this Act shall be subject to appeal to the Court to which appeals ordinarily lie and shall be open to revision by the High Court."

Sir, we have come to the fag end of these amendments and it must be a gratification to the Honourable the Home Member that he will soon stand congratulated that by his tenacity, I won't say obstinacy, he has shown that he has succeeded in all the amendments being rejected except perhaps the one with regard to the sentence in one case having been maintained to three months. Sir, I must confess that in putting forward this amendment, my main reason is to get certain doubts removed in connection with the right of appeal and right of revision with regard to the offences and the orders that are incorporated in this Bill. Sir, it is quite plain that the Bill, as it stands, does not provide for any appeals against the convictions and the sentences which are governed by the clauses of this Bill commencing from clause 2 to clause 8, and also it is quite plain with regard to the orders to be passed under this Bill which are covered by clause 13, that no right of appeal or of revision has been provided by this Bill. Sir, I am conscious of this and it will be a question for the Honourable the Law Member to answer in clear and definite terms whether, under the Criminal Procedure Code, or under any other law, there is a right of an appeal and a right of revision with regard to these offences and orders contained in this Bill. Sir, it is known to the House that, in the beginning, the original Bill intended that these offences should be incorporated and made part of the Penal Code. Of course, if they had been made part of the Penal Code, I do not think any difficulty would have arisen or there would have been any doubt with regard to the appeal against such orders and there would have been power of appeal under the Criminal Procedure Code. But it was not the will or the wish of this House that such drastic measures, which are of a temporary nature, should be put on a permanent Statute-book like the Indian Penal Code. Therefore, it was wise on the part of the Select Committee to have made this a separate Bill for consideration. But it should be made clear that on account of these clauses being incorporated in this Bill, the right of appeal and the right of revision do not go away. I said that it was mainly with a view to removing those doubts that I had moved this amendment and it would very much depend upon the reply that I get from the Honourable the Law Member whether I should withdraw my amendment or let it remain as it was.

Sir, it will be seen that clauses 2 to 8 provide convictions and punishment. Now, with regard to clause 8, while it was being debated yesterday, a question arose whether an appeal would lie under clause 8, and the reply given by the Honourable the Law Member was that it would lie. But I would like the Honourable the Law Member to say with regard to clauses 2 to 7 whether they also are similarly appealable. Also I would like to know whether they are such as could be revised by the High Court either under section 107 of the Government of India Act or section 439 of the Criminal Procedure Code. Sir, I myself am conscious of a provision in the Criminal Procedure Code which is contained in section 408 and which reads thus:

"Any person convicted on a trial held by an Assistant Sessions Judge, a District Magistrate or other Magistrate of the first class or any person sentenced under section

439 or in respect of whom an order has been made or sentence has been passed under section 318 by a Magistrate of the first class may appeal in the Court of Session."

Now, according to this section it is quite plain that an appeal would lie, because, in these clauses, you will find that there will be a trial made before a First Class Magistrate, who, after the trial has gone on in its usual way, will come to a decision. Then, according to this section, unless it is restricted by any other section, an appeal would lie. Now, in section 404 of the Criminal Procedure Code, it is said:

"No appeal shall lie from any judgment or order of a criminal Court except as provided for by this Code or by any other law for the time being in force."

Unless it is said that section 408 applies, the appeal would not lie. Therefore, there is some doubt about it and it is because of that doubt that I wish to make it quite clear and plain for laymen if not for lawyers and I would like to have a definite statement from the Honourable the Law Member.

Now, with regard to the revision. Section 439 of the Criminal Procedure Code allows the High Court as a Court of revision to send for the proceedings and pass orders as if it were a Court of appeal. In my humble opinion, all sections to which I have referred would allow the High Court to call for the records of these proceedings and to pass orders. Sir, the word "proceeding" is a very wide word and the powers of the High Court are wide enough. There is also section 107 of the Government of India Act which allows the High Court to exercise its powers of superintendence. Now, Sir, this much with regard to the sections to which I have referred. But, as I have also put in another amendment with regard to the orders, I would request the Honourable the Law Member to answer points covered by that amendment also, because it will relieve me from moving it separately. Now, these orders come under sections 11, 12 and 13. One can see that an order under section 11 is to be made by the Governor General in Council. "If he is satisfied to the like effect, he may, by notification, declare an association to be an unlawful association." Similarly, in clause 13 also, "The Local Government may, by notification in the local official Gazette, notify any place which, in its opinion, is used for the purpose of an unlawful association". Now, these two are no doubt executive orders. Coming to clause 2 of sub-section 17A, we find that the order has to be made by the District Magistrate or, in a Presidency-town, by the Commissioner of Police or any officer authorised in this behalf. This clause refers to taking possession of the notified place and evicting therefrom any person found therein. Then, Sir, there is clause 17B where also the District Magistrate makes an order taking possession of a notified place and also of moveable property found therein. Now, these are orders of Magistrates which, according to my humble submission, should be either appealable or subject to revision.

It might be contended that there is some remedy allowed with regard to orders made under section 17B when possession of moveable property has been taken and forfeiture has been made. It is only after the forfeiture has been made that a remedy has been provided that that man can apply to the District Judge to give his own decision thereon, but it is provided that the order of the District Judge shall be final. It is, therefore, necessary to provide that such an order should be liable to an appeal. With regard to that order, there also should be a power of revision, because, if there is an appeal under the Criminal Procedure Code,



[Mr. Lalchand Navalrai.]

there is also the further power under section 439 of the Criminal Procedure Code. Such orders as to forfeiture, etc., should not remain final so far as not to even allow the powers of superintendence of the High Court. These powers are given under section 107 of the Government of India Act. Therefore, I submit that this should be open to appeal as well as revision. To make such drastic laws and not to provide for appeals or revision is extremely unnatural. Therefore, without taking any more time, I should like to hear what the Honourable the Law Member's opinion is with regard to this.

**The Honourable Sir Brojendra Mitter:** Sir, I hope I shall be able to remove the doubts of my Honourable friend, Mr. Navalrai, and that after hearing me he will see his way to withdraw the amendment. I draw the attention of the House to sub-clause (1) of clause 9 of the Bill, which says that no Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence under this Act. Therefore, whenever any prosecution is started, it must be started in the Court of a Presidency Magistrate or a Magistrate of the first class. The Presidency Magistrate and Magistrate of the first class are creatures of the Criminal Procedure Code; and you have to look to the Criminal Procedure Code for their powers and for the ultimate destination of the orders that they make. Section 408 provides that any person convicted on a trial held by a Magistrate of the first class may appeal to the Court of Session. Here then is the right of appeal from a conviction made by a Magistrate of the first class. Then, section 411 says that any person, convicted on a trial held by a Presidency Magistrate, may appeal to the High Court.

**Mr. K. Ahmed:** Only when the conviction is for more than six months and the fine exceeds Rs. 200.

**The Honourable Sir Brojendra Mitter:** Yes, when the conviction exceeds six months and the fine exceeds two hundred rupees. In these cases an appeal lies to the High Court. What about other cases, that is to say, cases in which the Presidency Magistrate sentences a person to imprisonment for a term less than six months or to a fine less than Rs. 200? In such a case there would be no appeal to the High Court, but there come in the powers of the Court under sections 435 and 439 apart from the powers under section 107 of the Government of India Act. Section 435 says that the High Court or any Sessions Judge or District Magistrate or any sub-divisional Magistrate, empowered by the Local Government in this behalf, may call for and examine the record of any proceeding before any inferior criminal Court situate within the local limits of its or his jurisdiction for the purpose of satisfying itself or himself as to the correctness, legality or propriety of any finding, sentence or order. Therefore under this section a revision would lie from the order of a Presidency Magistrate or from the order of a Magistrate of the first class. Where there is no appeal, then the Sessions Judge or District Magistrate may revise. The powers under section 435 cover a number of cases. Then we come to section 439 which is the High Court's power over all Courts. That says that in the case of any proceeding the record of which has been called for by itself or which has been reported for orders or which otherwise comes to its knowledge, the

High Court may in its discretion exercise the powers conferred on a Court of appeal. All these powers come into play, because the trial will have to be held by a Magistrate under the Criminal Procedure Code, that is, a Presidency Magistrate or a Magistrate of the first class. Sir, I hope that will satisfy my Honourable friend, Mr. Lalchand Navalrai.

**Mr. Lalchand Navalrai:** Only about sentences and convictions.

**The Honourable Sir Brojendra Mitter:** Yes, that is so far as convictions, sentences and orders are concerned.

**Mr. Lalchand Navalrai:** Will these include an order under the proposed section 17A (2) in clause 13?

**The Honourable Sir Brojendra Mitter:** These are executive acts and they do not come in. It is only judicial orders which come under the appellate or revisional sections of the Criminal Procedure Code. Here the District Magistrate or, in a Presidency-town, the Commissioner of Police, may take possession. That is not a case of order or conviction,—it is only taking possession.

Then I come to the order which is mentioned in clause 17B, sub-section (7). That is an order of the District Judge or Chief Judge of the Small Cause Court, and it is provided that the order shall be final. The effect of that is that appeals are barred. But that does not take away such powers as the High Court may have under section 107 of the Government of India Act. We cannot touch the Government of India Act, because it is a Parliamentary Act. Whatever powers the High Court may have under the Government of India Act are left unimpaired. I think that is all need say and I hope my learned friend will now withdraw his amendment.

**Mr. Lalchand Navalrai:** Sir, I feel after hearing the Honourable the Law Member that I am satisfied by what he has said and I would, therefore, ask for leave to withdraw my amendment.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Is it the pleasure of the House to give leave to the Honourable Member to withdraw his amendment?

The amendment was, by leave of the Assembly, withdrawn.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That clause 1 stand part of the Bill."

**The Honourable Sir Brojendra Mitter:** Sir, I move:

"That after sub-clause (1) of clause 1 of the Bill, the following new sub-clause be inserted and sub-clauses (2) and (3) be re-numbered as sub-clauses (3) and (4), respectively:

"(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas."

I ought to explain why this amendment is necessary. When the Bill was introduced, it was intended to amend the Indian Penal Code and

[Sir Brojendra Mitter.]

therefore, no extension clause was necessary; but in the Select Committee the Penal Code was left alone and it became a self-contained Bill. We omitted then to notice that in the Bill there was no extent clause; it would not have been necessary if we were amending the Indian Penal Code. Now it is a separate Bill; but there is no extent clause. That is why it is necessary to have this amendment. I move.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Amendment moved:

"That after sub-clause (1) of clause 1 of the Bill, the following new sub-clause be inserted and sub-clauses (2) and (3) be re-numbered as sub-clauses (3) and (4), respectively:

'(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas'."

**Mr. Amar Nath Dutt**: Sir, I would like to know from the Honourable the Law Member if this clause is not inserted to what countries will the Criminal Law Amendment Bill apply. Are we entitled to legislate for Timbuctoo or Honolulu? I do not know. We are only entitled to legislate for British India. If that be so, I think the insertion of this extension clause is not at all necessary. If it is thought necessary by Government, then we shall see whether we shall or shall not support it.

**The Honourable Sir Brojendra Mitter**: Sir, if there is no extent clause, then you cannot say whether it applies to the whole of British India or to any part of British India or where it applies. The whole thing is in the air. You must have the extent clause.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That after sub-clause (1) of clause 1 of the Bill, the following new sub-clause be inserted and sub-clauses (2) and (3) be re-numbered as sub-clauses (3) and (4), respectively:

'(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas'."

The motion was adopted.

**Mr. K. P. Thampan** (West Coast and Nilgiris: Non-Muhammadan Rural): Sir, I beg to move:

"That for sub-clause (3) of clause 1 of the Bill, the following be substituted:

'(3) It shall remain in force for one year; but the Governor General in Council may, by a notification in the Gazette of India, extend it to a further period of one more year'."

You will find that the Bill, as drafted, provides for a duration of three years. You will find also lower down in the agenda there are proposals for restricting the life of this Bill to six months, to nine months and two years, and like that. This is by way of a compromise. I propose that it should last only for one year, but have also provided that the Governor General in Council may, by notification in the Gazette of India, if he thinks it necessary, extend it for another year. This is practically an Ordinance Bill and as Ordinances are generally in force only for six months, it is but proper that this Bill has a duration of only six months. I have, however, considering the extraordinary conditions prevailing provided for one year with powers to the Governor General in Council to

extend it for another year. I believe that the present conditions in India will attain normal state by the time two years expire. The new constitutional Reforms will also come into force by that time. It is sufficient, therefore, if the Bill has a duration of two years as I propose. Generally, it is these repressive laws that beget revolution and it is highly necessary that in the interests of the country this should have life only for the shortest minimum period possible. With these words, I move.

**Mr. C. S. Ranga Iyer:** Sir, I rise to associate myself with the observations made by my Honourable friend from Malabar. It is not necessary to make a long speech on this subject. There is a precedent and I would ask the Honourable the Home Member to go to his predecessor and see the precedent. In the Press Bill, it was provided that sufficient unto the year would be the evil thereof and I would suggest not to anticipate the calamitous campaign of civil disobedience for three years; but to be armed with legislation for one year and, if need be, to proceed for another year as suggested by the amendment. The Honourable gentleman has been unwilling to accommodate some suggestions from this side of the House and I do not know if he proposes to persist in making his Bill scarlet.

**The Honourable Mr. H. G. Haig:** Sir, I am well aware of the precedent that my Honourable friend, Mr. Ranga Iyer, refers me to. That is a matter of procedure. But this amendment proposes that the total period of three years which, after very careful consideration in Select Committee, we considered to be essential for the provisions of this Bill should be reduced in the aggregate to two years. That is a proposal which I am afraid the Government cannot accept.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That for sub-clause (3) of clause 1 of the Bill, the following be substituted:

'(3) It shall remain in force for one year; but the Governor General in Council may, by a notification in the Gazette of India, extend it to a further period of one more year'."

The motion was negatived.

**Sir Hari Singh Gour:** Sir, I move:

"That for sub-clause (3) of clause 1 of the Bill, the following be substituted:

'(3) It shall remain in force for two years only, but the Governor General in Council may, by notification in the Gazette of India, direct that it shall remain in force for a further period of one year'."

From the superstructural Acts or Bills passed in Bombay and in the United Provinces, I should have been disposed to give this Bill the life of one year in the first instance with an additional life of two years in case the Governor General in Council so decided on representations made by the Local Governments affected by this Bill. But as it is, Sir, we feel that the Government might accept at least this amendment and give us a crumb of comfort, because, if it is pressed to a division, I know how it will result. Sir, I move.

**Mr. C. S. Ranga Iyer:** Sir, I rise to oppose this motion. (Applause from the Nationalist Benches.) I am, Sir, after hearing the speech delivered by the Honourable the Home Member in reply to the very modest request

[Mr. C. S. Ranga Iyer.]

of my friend, Mr. Thampan, unwilling to humiliate myself and friends of my way of thinking by going with a beggar's bowl to the Treasury Benches and asking them for "a crumb", a phrase which my friend and Leader used. My party fortunately have not examined this position. I am not a beggar screaming for alms at the doors of the Government. Again and again they have turned down our amendments. We are quite willing to face the music and the operation of this law in the manner in which it may operate. Sir, we do not want this mendicant amendment. (Applause.)

**Mr. S. O. Mitra:** Sir, I support my friend, Mr. Ranga Iyer. It is a mere eye-wash, and I do not see how it is an improvement on the clause introduced by the Government. That is the attitude of our Party also, and, therefore, we oppose this amendment.

**Raja Bahadur G. Krishnamachariar:** Sir, I oppose this amendment. I do it for a reason which would be quite new. I was recently reading a book called the "New Despotism" written by the present Lord Chief Justice of England. In that book it has been stated that the tendency more and more has been to pass Parliamentary Statutes but to give the executive power to supplement them by rules. Now, for the last ten days I hope my friends have been quite sincere in their opposition to this Bill upon the principal ground that they cannot rely upon the Government and their good intentions. Now, at the end of the discussion, they say—"It does not matter if we give the Governor General in Council power to extend this Act for another year or two," it would look ridiculous. That is exactly what we have all been objecting to all these days. That will be a very inconsistent position to take. If you want to give power to the Governor General in Council, give him power for three years, or if you do not want to give him that power, then stop him from exercising that power after that period. Let him again come before this House and ask that these powers should be conferred again on him. Let the whole question be considered on the conditions then existing, and if you find it necessary to make this law, then make it for 30 years, or 300 years. But to say that you do not want this Bill at all for all these ten days, and now on the eleventh day to ask the Government to give it only two years' life if it chose is a position which can only be described as absurd. It is a position which the present Chief Justice of England declared to be absolutely unconstitutional, and it is upon that ground that I oppose this amendment.

**The Honourable Mr. H. G. Haig:** Sir, I find myself placed in some difficulty looking to the course of the discussion on this amendment. I think my friend, Mr. Ranga Iyer, must have seen a gleam of benevolence in my eye when his Honourable Leader was proposing this amendment, and, therefore, following the tactics which have been observed by the Opposition throughout these discussions, he was determined not to accept anything that we might be prepared to offer, and thereby he would be able to secure the credit or rather the advantage of declaring that the Government had been absolutely unbending and had not been prepared to meet the Opposition in any way. Well, Sir, this is a matter of procedure, a

procedure which was highly commended by my friend, Mr. Ranga Iyer, on the previous amendment, but when he comes to this amendment, his enthusiasm for that procedure has evaporated. The position of Government is this. If it is any satisfaction to the Opposition, Government are prepared to accept this amendment. On the other hand, if my friends opposite prefer the Bill as it is, we do not wish to force this amendment down their throats.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question which I have to put is:

"That for sub-clause (3) of clause 1 of the Bill, the following be substituted:

'(3) It shall remain in force for two years only, but the Governor General in Council may, by notification in the Gazette of India, direct that it shall remain in force for a further period not exceeding one year'."

(After the Division Bell.)

**Sir Hari Singh Gour**: As my friends do not want this concession, I beg leave to withdraw the amendment.

The amendment was, by leave of the Assembly, withdrawn.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): As it is

5 P.M.

5 o'clock, the Chair desires to ascertain what the wishes of the House are in regard to the suggestion it threw out at the commencement of the proceedings this morning. Is it the pleasure of the House to sit till a late hour today and dispose of all amendments and the third reading, or to sit tomorrow and finish off this Bill? The Chair has tried to ascertain the general feeling of the House and the bulk of opinion appears to be in favour of sitting tomorrow instead of to a late hour today. The Chair has been informed that there is a fairly large number of Honourable Members who wish to speak on the third reading. It is a very important Bill and the Chair wishes to provide opportunity for full discussion on the occasion of this last stage of the Bill. (Cheers.) The Chair, therefore, proposes to adjourn till 11 o'clock tomorrow morning. The House will now adjourn till 11 o'clock tomorrow.

The Assembly then adjourned till Eleven of the Clock on Saturday, the 3rd December, 1932.



# LEGISLATIVE ASSEMBLY.

Saturday, 3rd December, 1932.

The Assembly met in the Assembly Chamber of the Council House at Eleven of the Clock. Mr. President (The Honourable Sir Ibrahim Rahimtoola) in the Chair.

## STATEMENTS LAID ON THE TABLE.

**Mr. T. Ryan** (Director General of Posts and Telegraphs): Sir, I lay on the table the information promised in reply to part (d) of starred question No. 1872 asked by Seth Haji Abdoola Haroon on the 22nd November, 1932.

### LATE COMMUNICATION OF GOVERNMENT ORDERS REGARDING THE ADJUSTMENT OF COMMUNAL INEQUALITIES IN THE POSTS AND TELEGRAPHS DEPARTMENT.

\*1372. (d) Of the seven other Postmasters-General, five communicated the orders in December, 1927, one in January, 1928 and one in May, 1928.

**The Honourable Mr. H. G. Haig** (Home Member): Sir, I lay on the table the information promised in reply to starred question No. 1191 asked by Sardar Sant Singh on the 15th November, 1932.

### NUMBER OF ARRESTS AND CONVICTIONS UNDER THE CONSOLIDATED ORDINANCE.

#### Statement.

\*1191.

Province.	Number of persons convicted not necessarily imprisoned under the consolidated Ordinance for offences connected with the civil disobedience movement during the month of October, 1932.	Number of persons arrested under section 3 of Special Powers Ordinance during the month of October, 1932.
Madras	7	..
Bombay	285	62
Bengal	21	76
U. P.	83	..
Punjab	19	1
B. & O.	200	..
C. P.	..	..
Assam	1	..
N.-W. F. P.	..	3
Delhi	7	2
Coorg	..	..
Ajmer-Merwara	5	..
Total	619	144



**Mr. G. S. Bajpai** (Secretary, Department of Education, Health and Lands): Sir, I lay on the table the information promised in reply to starred question No. 842 asked by Dr. Ziauddin Ahmad on the 26th September, 1932.

#### ALLEGATIONS OF ILL-TREATMENT TO INDOOR PATIENTS IN THE DELHI CIVIL HOSPITAL.

\*842. (a) The enquiries made by Government show that the present strength of the Superior Staff is not enough for efficient supervision of a big hospital like the Civil Hospital, Delhi. They understand that the matter is already engaging the attention of the Municipal Committee. No cases of ill-treatment to indoor patients or extortion of money from them have come to the notice of the Civil Surgeon. He took disciplinary action recently against a Ward Orderly who had neglected a patient in the hospital.

(b) There is no Director General of Civil Hospitals. If the Honourable Member means the Director-General, Indian Medical Service, the answer is in the negative.

(c) The Civil Surgeon, who is also the Chief Medical Officer, Delhi.

**Mr. G. R. F. Tottenham** (Army Secretary): Sir, I lay on the table the information promised in reply to part (b) (iii) of starred question No. 1221 asked by Mr. B. R. Puri on the 15th November, 1932.

#### RESUMPTION OF BUNGALOWS IN THE CANTONMENTS OF PESHAWAR AND KOHAT.

*Statement showing the rent of the Bungalows acquired.*

\*1221 (b)(iii).

##### Kohat Cantonment.

Bungalow No.	Rent
6	Rs. 105 per mensem.
8	125 "
9	75 "
21	81 "
18	63 "
34	105 "

(No. 34 was bought on 14th November, 1932, by private treaty.)

##### Peshawar Cantonment.

No.	Description	Rent
19	The Mall	Is vacant at present. The last tenant paid rent at Rs. 60 a month.
8	Jheel Road	100 per mensem.
8-A	Jheel Road	50 "
1	Warburton Road	120 "
3	"	100 "
5	"	150 "
6	"	100 "
2	Rooskeppel Lane	The owner is in occupation. In 1931, the rent was Rs. 110 a month.
5	Fort Road	The owner is in occupation. Rental value, as assessed under the Cantonments Act, 1924, is Rs. 80 a month.
51	The Mall	50 per mensem.
6	Michni Road	Bungalow burnt down.
21	The Mall	82 per mensem.
9	Willcocks Road	153 "
66	The Mall	115 "

The price offered for 66 The Mall, Peshawar Cantonment, is Rs. 14,378.

**Mr. P. R. Rau** (Financial Commissioner, Railways): Sir, I lay on the table:

- (i) the information promised in reply to starred questions Nos. 791 and 798 asked by Khari Bahadur Haji Wajihuddin on the 26th September, 1932;
- (ii) the information promised in reply to starred question No. 1472 asked by Mr. K. Ahmed on the 28th November, 1932; and
- (iii) the information promised in reply to unstarred question No. 176 asked by Khan Bahadur Haji Wajihuddin on the 30th September, 1932.

#### CONTROL OF TRAVELLING TICKET EXAMINERS BY THE SUPERINTENDENT, STAFF, ON THE EAST INDIAN RAILWAY.

\*791. The Travelling Ticket Examiners are under the control of the Commercial Officer on all Divisions except Moradabad, where the Commercial Officer was unable to take on the work without an Assistant. The work then was undertaken by the Superintendent, Staff, who has an Assistant and who has been carrying it out efficiently. The arrangement was approved by the Agent. It does not call for the sanction of the Railway Board, since provided the principles of the Moody-Ward system are generally followed, Government do not wish to fetter the discretion of the Railway Administration to make as a result of experience of actual working, such modifications of the general arrangements as may be necessitated by the exigencies of local conditions.

#### REPORTS OF CHIEF INSPECTORS OF TRAVELLING TICKET EXAMINERS ON THE TICKET CHECKING SYSTEM.

\*793. Government are informed that no such report was called for.

#### HOUSE RENT FOR THE STAFF ON THE HARDWAR-DEHRA DUN SECTION OF THE EAST INDIAN RAILWAY.

\*1472. This is not correct. All staff at Dehra Dun who are eligible for the house rent under the rules are granted the same.

#### ALLEGED FRAUDS IN THE EAST INDIAN RAILWAY HIGH SCHOOL, TUNDLA.

176. (a) Certain irregularities were reported in September, 1931, and the audit of the accounts by the Divisional Accounts Officer confirmed this. His report is a departmental document which Government do not consider it would be in the public interest to publish.

(b) The Head Master was first granted leave on account of ill-health from 15th September, 1931, to 7th July, 1932, and on the expiry of that leave was suspended by the President of the School Committee pending an enquiry into the irregularities reported.

(c) It appears that a Radio Physics Course, a Soldering Iron and a Water Radio Meter were purchased by the Head Master and the transactions appeared in the School accounts. As technical classes are held at the School, there is, however, nothing to show that they were not purchased for the use of the School.

(d) A preliminary enquiry was held and as a result of this a charge was formulated. On receipt of the Head Master's explanation, a senior officer's enquiry was called which included the Officiating Deputy Director of Public Instruction, United Provinces.

The report of this Committee was considered by the President of the School Committee, who was of opinion that the case would be met by a severe reprimand and by withholding Mr. Bansal's increase for a period of one year.

(c) The Head Master was admitted to the Agra Mental Hospital on the 22nd September, 1931, and remained there till about the 2nd November, 1931. The preliminary enquiry was not held until the following June

### THE CRIMINAL LAW AMENDMENT BILL—*contd.*

**Mr. Nabakumar Sing Dudhoria** (Calcutta Suburbs: Non-Muhammadan Urban): Sir, I move:

"That for sub-clause (3) of clause 1 of the Bill, the following be substituted:

'(3) It shall remain in force for one year only, but the Governor General in Council may, by notification in the Gazette of India, direct that it shall remain in force for a further period not exceeding two years.'

Sir, my object in proposing to extend the duration of this Bill to one year in the first instance should not appear to the House either without reason or without precedent. Those of us who have closely followed the proceedings of the several Provincial Legislatures are aware that Bombay, Punjab, United Provinces and even Bengal Councils, that have recently enacted on the identical lines, have limited the life of such a legislation to one year only. Therefore, I see no reason why the Government of India should be so anxious to overdo their part in the matter and make the Bill run a three years' life all at once. Sir, it is anticipated that one year's operation of the Bill will bring about the desired result and so to propose to run it for a course of three years at one stretch will be galling to public feeling. My proposal does not preclude the Government of India to extend the life of the Bill for a period of another two years after it is in operation for a year, if there will be the real necessity for such an extension. Sir, we have got to move quite cautiously in the matter of a legislation of this character and should not allow ourselves to be carried away by any sort of over zeal or panic in the matter. Sir, if my amendment is acceptable to the House, it will on the one hand pacify the public feeling that has grown in this enactment and, on the other hand, will substantially take away the force and vigour at the time of the third reading. With these words, Sir, I commend my amendment for acceptance of the House.

**The Honourable Mr. H. G. Haig** (Home Member): In earlier debates on this Bill, I made it clear on behalf of the Government that we wished to ensure that the powers conferred by this Bill will be retained for a reasonable period. If there is any uncertainty about that, it will reduce considerably the effectiveness of the Bill. One year is not in my opinion a reasonable period and if it were supposed that at the end of one year these powers might be withdrawn, we should not be securing the effect at which we are aiming. If, on the other hand, it is clear that at the end of one year, the Government of India will not be in a position to dispense with these powers, then there is no advantage in having a provision expressed in this form, which really has precisely the same effect as the provision already in the Bill laying down the period of three years. Sir, I oppose the amendment.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That for sub-clause (3) of clause 1 of the Bill, the following be substituted :

'(3) It shall remain in force for one year only, but the Governor General in Council may, by notification in the Gazette of India, direct that it shall remain in force for a further period not exceeding two years'."

The motion was negatived.

**Mr. S. C. Mitra** (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): Sir, I move:

"That in sub-clause (3) of clause 1 of the Bill, for the words 'three years' the words 'six months' be substituted."

I know there is no chance of my amendment being accepted; still I should like to make it clear why I have tabled this amendment. It is admitted even by Government that this legislation is only an emergency measure. Emergency by its dictionary meaning is a certain juncture calling for immediate action. That action has been taken and even in the Government of India Act there is provision for emergency occasions in section 72 where it has been provided that Ordinances promulgated by the Governor General shall last for a period of six months. If it is an emergency measure, the period should be only six months. Further, when Government accepted the period of three years, they were under the impression that by that time the new constitution would be settled and for this intervening period there should be special legislation. As the work of the Round Table Conference is proceeding, it is quite clear that within six months it will be settled. The amendment of Rai Bahadur Sukhraj Roy, which was not moved, wanted the period to be for only one month. Even that period is sufficient for us to know what is in store for India under the new constitution. I think the special legislation should last only for six months. Therefore, I move my amendment.

**Mr. S. G. Jog** (Berar Representative): Sir, I have great pleasure in supporting the amendment moved by my friend, Mr. S. C. Mitra. On the face of it, it looks no doubt ridiculous that since the amendments for limiting the period to one year and two years have been thrown out by the Honourable the Home Member, how can there be any chance of this amendment succeeding. But I, for one, would say that there is no principle in making the amendment for two years or for one year, but in making this amendment for six months there is a principle and we are following that principle. As explained by my friend, Mr. Mitra, this is an emergency measure. No emergency ordinarily lasts for more than six months, and, therefore, we maintain that this emergency measure should last for six months only. In doing this we are not doing anything more than what was done under the Ordinances. We are only assuming for the time being the power which the Viceroy exercised, by virtue of his position, with regard to the Ordinances. The issue of subsequent Ordinances was either unconstitutional or awkward and, therefore, this matter has been brought before the House. The House has also so often said that such measure should be placed before it and the power of issuing Ordinances should not be exercised. Therefore, it has come before the House in the form of this Bill.

[Mr. S. G. Jog.]

From the discussions we have had for such a long time the Home Member by now probably must be conscious of the fact that the provisions of the Bill even in their approved form are not approved of by this side of the House. However, as a lesser evil we would like to have the life of the Bill restricted to six months only. The next six months are the most critical in the life of this country as the constitutional changes are on the anvil and are being discussed. After six months, if the new constitution and the new reforms come up to the expectations of the people, I hope the so-called civil disobedience movement will be abandoned and there will be no necessity for this Bill. Under these circumstances, I submit that as there is a principle behind this amendment of six months, it should be accepted. We had a lot of discussion in the Select Committee also on this amendment and we had a substantial number on our side who pressed for the amendment of six months. The same thing we are doing here and we are not doing anything more than what the Viceroy had done by the promulgation of these Ordinances. I think we should not go beyond that period. I wholeheartedly support the amendment.

**Mr. Lalchand Navalrai** (Sind: Non-Muhammadan Rural): Sir, a similar amendment stands in my name. I support this amendment, and my reasons for doing so are these. The Preamble itself says:

"Whereas it is expedient to supplement the Criminal Law and to that end to amend the Indian Press (Emergency Powers) Act, 1931, and further to amend *temporarily* the Indian Criminal Law Amendment Act, 1908, for the purposes hereinafter appearing;":

Sir, if an amendment is made and the life given to it is three years, it can never be said to be temporary at all. Therefore, to keep in conformity with the very intention of making this Bill temporary, I submit, that six months' time is the time which can be called temporary. Sir, the Bill is emergent and we should seek certain precedents and law with regard to the age of an emergent Bill. Sir, under the Government of India Act, it is only six months that is the duration prescribed for making an emergency Bill. It would be unconstitutional if we go beyond that. It is clear that the Viceroy also made the Ordinances which had their life only for six months and they were repeated. Of course, this House also could repeat the Bill if any necessity arose for doing so. But I cannot understand for a moment why is it that the Government are anxious and persistent in allowing this Bill to remain in force for three years. Sir, it may be that the Government might be thinking of carrying on the fight that they have indulged in with the people for three years, but, I submit, that will be a wrong idea. In these days Government should rather conciliate the people than irritate them. I submit that the Assembly meets not only once, or twice, but now-a-days meets three times in the year and if circumstances still require, it will not be difficult for the Government to come in again before this House for extension. I, therefore, support this amendment.

**The Honourable Mr. H. G. Haig**: Sir, the argument by which this amendment is supported appears to be that an emergency cannot last for more than six months and this proposition is sought to be established by reference to the powers in the Government of India Act which enable the Governor General to issue Ordinances for a period of six months. Sir,

I suggest that the reason that a limited period is placed on the powers of the Governor General is not that there is an inherent limit of six months to the period of an emergency, but that it is not considered reasonable that this very exceptional procedure of enacting legislation by the order of the Governor General should have more than a limited period of life. The theory is that after a certain period, if the emergency, or the conditions which necessitated that legislation continue, the legislation should be put before this House and that is precisely the action which we have taken. Now, Sir, it is clear on the face of it that in the particular case we are considering, the situation has lasted already a good deal more than six months and he would be a very sanguine person who could assure me that at the end of six months the civil disobedience movement will be not only dead but buried. I would only add this that when we put a measure like this before the House it takes a great deal of our legislative time. We have already been engaged for, I think, fully three months in the deliberations on this Bill and if every six months we are to spend another three months on re-enacting a Bill for a further period of six months, I fear the business of the House will be very seriously impeded. Sir, I oppose the amendment.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in sub-clause (3) of clause 1 of the Bill, for the words 'three years' the words 'six months' be substituted."

The motion was negatived.

**Mr. Amar Nath Dutt** (Burdwan Division: Non-Muhammadan Rural): Sir, I beg to move:

"That in sub-clause (3) of clause 1 of the Bill, for the words 'three years' the words 'nine months' be substituted."

From the laughter with which the motion is greeted on my side of the House, let not my Honourable friends on the Treasury Benches think that they do not approve of this amendment. It is only a sympathetic laughter, because they know what will be the fate of this amendment. Sir, I still move it, and my reasons are these. The powers of the Governor General to issue an Ordinance is for six months. When Government have come with a Bill before this House we take it that His Excellency's Government think that more than six months is needed for a law like this and, as more than six months is needed, they have come to this House. We are also willing to accommodate them to some extent if that is correct and we will give them nine months.

Sir, by September next we will in all probability have the elections under the new constitution, and that being so, I think we should not leave this as a legacy to our successors and bind their hands. Let us be condemned throughout the country for having enacted a law like this, but let us not bind the hands of those whom the people in September next will return to our places and who will see whether or not such a law is required. With these words I beg to move the amendment.

**The Honourable Mr. H. G. Haig**: Sir, I think I need not repeat the general argument I have already adduced for the period of three years. I oppose the amendment.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in sub-clause (3) of clause 1 of the Bill, for the words 'three years' the words 'nine months' be substituted."

The motion was negatived.

**Mr. B. V. Jadhav** (Bombay Central Division: Non-Muhammadan Rural): Sir, I move:

"That in sub-clause (3) of clause 1 of the Bill, for the words 'three years' the words 'one year' be substituted."

The Honourable the Home Member thinks that a period of six months is very limited and that he will be a sanguine person who will assure Government that the purpose for which this Bill has been brought forward will be fulfilled within that short period. I think, Sir, that when I move that the period of this Bill should be limited to one year, the Home Member will not think that I am a very sanguine person. Sanguineness or pessimism are temperamental. Government have been promising us a very liberal constitution at the conclusion of the deliberations of the Round Table Conference, and if Government are to be taken at their word, then that liberal constitution ought to satisfy the reasonable section of the Indian public; and one can very sanguinely expect that all the unrest that has been created on account of the political disaffection will subside and normal times will return. But if Government themselves have doubts about the liberality of the future constitution, then of course they are pessimists themselves and they expect that the unrest might continue. But in that case even three years will not suffice and the unrest will not go. But if the constitution is satisfactory, one year will be sufficient; and for this reason I place before the House this amendment that the period should be limited to one year.

**The Honourable Mr. H. G. Haig**: Sir, we want by this Bill to give some assurance to those who desire stable conditions for the introduction and starting of the new constitution. It has been suggested by my friend, Mr. Jadhav, that if in fact the new constitution is a reasonable one, there need be no further apprehensions. But that argument rests on the presumption that the behaviour of the extremists in this country will always be reasonable, and that is a presumption on which we cannot proceed. After all we have to remember that for the second time the civil disobedience movement was started on what we regard as quite inadequate grounds, and if an opportunity is afforded by a relaxation of these powers it may be started for the third time. Sir, I oppose.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in sub-clause (3) of clause 1 of the Bill, for the words 'three years' the words 'one year' be substituted."

The motion was negatived.

**Mr. Amar Nath Dutt**: Sir, I beg to move:

"That in sub-clause (3) of clause 1 of the Bill, for the words 'three years' the words 'fifteen months' be substituted."

Sir, I shall not attempt the impossible feat of convincing my friends on the opposite side, for those who are not willing to be convinced cannot be convinced. There is a story that a certain minister once promised that if any one could convince him of the reasonableness of a certain measure, then he would give up everything that he possessed in this world. When he went home, his wife was very morose and frightened and said: "What have you done? If anybody is able to convince you, we shall lose everything." Then he consoled her by saying: "Why are you so afraid? To be convinced and to express that I am convinced rests with me, and do you think I am such a fool as to ever acknowledge that I am convinced?" So is the case with my friends on the opposite side. They will never say that they are convinced with the reasonableness of any argument whatsoever on our side. But here is a period for which I ask the Bill to remain in force for reasons which I shall presently give.

It has been said that they want to hand down the present administration to those who will be in charge of the Indian Government after the new constitution comes into force. Sir, considering the haste with which framing of the new constitution is going on, and considering that almost everything is ready save and except the outside veneer of showing to the world that they have taken certain Indians into their confidence, considering all these things, we may reasonably expect that the new constitution will come into working order in the year 1934—it is just 12 months from now—and that being so—and if you want to give the rulers under the new constitution some time, say for three months, then one would have expected us to consider whether we should pass such drastic legislation. And if they require a law like this, no doubt they can have the necessary legislation. It has been said ironically by my friend, the Honourable the Home Member, that it will take three months for re-enacting this Bill.

**The Honourable Mr. H. G. Haig:** I did not say it ironically. I said it seriously.

**Mr. Amar Nath Dutt:** Whatever it may be, I beg to submit that the next Government that will succeed the present one, if it thinks that such a measure is necessary, then they will not require so many months to pass a Bill like this. for, Sir, I hope that under that constitution neither obstructionists, as we are called by some friends on the other side, like ourselves will be here nor I hope and wish that men who would have such Draconian legislation as we are discussing at present will sit on the Treasury Benches. So these two factors which have been responsible for taking so much time as three months will not be there, and I do not think you can presume that they will be so unreasonable as ourselves or the Honourable Members opposite. That being so, I submit that one year for the coming of the new constitution into force *plus* three months is the proper duration for this Bill, and no reasonable man can oppose this. Sir, I move my amendment.

**The Honourable Mr. H. G. Haig:** Sir, I do not think it is necessary to repeat my general arguments, which apply equally to all the various fractional periods which my Honourable friend, Mr. Amar Nath Dutt, proposes.



**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in sub-clause (3) of clause 1 of the Bill, for the words 'three years' the words 'fifteen months' be substituted."

The motion was negatived.

**Mr. T. N. Ramakrishna Reddi** (Guntur *cum* Nellore: Non-Muhammadan Rural): Sir, this is the last of the amendments for fixing the time-limit for this Bill and I request the Government to give their various consideration to this amendment. Sir, before I move this, I must make two things plain. In moving for a certain limitation of the period of duration of the Bill, I do not admit that the movement exists which requires this drastic Bill, and, secondly, that if there was a responsible Government, they would not have passed such a piece of obnoxious legislation. Now that the Bill is going to be passed, we have to face the facts now and the only way in which we can mitigate the rigour of this Bill is to fix a certain time-limit for this Bill. Now the Government admit that this is an extraordinary piece of legislation, designed for some extraordinary purpose, *viz.*, to put down the civil disobedience movement in all its forms and activities. I ask the Government, then, why should they fix a time-limit? It is because Government themselves think that this movement will come to an end in the course of three years, and that is why they fix this time-limit, and various amendments have been moved for fixing the time-limit at six months, one year and various other periods within that period of three years. Sir, I do not approve of any fixed time-limit. These civil disobedience movements are planned and destined for achieving a certain object. When that object is achieved, such movements will not exist. They are not designed to continue for some particular period. They are designed for some particular object and when that object is achieved, such movements cease to exist by themselves and there is no necessity for the existence of any repressive legislation. So my amendment runs, and I move it, Sir:

"That in sub-clause (3) of clause 1 of the Bill, for the words 'three years from its commencement' the words 'the time until the new constitution for India comes into operation' be substituted."

When the new constitution comes into operation, there will be no necessity for this legislation, since the object of such movements is to get responsible Government for India and that is exactly what His Majesty's Government as well as the Government of India have repeatedly been saying that they want to give us responsibility at the centre. Now, when that responsibility comes, there will be absolutely no necessity for this movement. Now the Honourable the Home Member said that this has nothing to do with the introduction of responsible Government. It would thus appear that if the present behaviour of the extremists continue, then it is reasonable to presume that this Bill will also continue, that is to say, that the period of this Bill must depend upon the reasonableness of the extremists. Now, if that is the argument of the Government, why should they fix three years as the period? Do they think that after three years the whole attitude of the extremists will change? Or, they can now come openly and say that the measure will remain on the Statute-book for ever and ever. Government, however, themselves perceive that some limitation must be fixed for the duration of the Bill, and, I submit, this is the only reasonable limitation which ought to be agreed to. Further,

there is another fact also to be taken into consideration. His Excellency the Viceroy and many other responsible persons in England also have been stating repeatedly that we should create a favourable atmosphere for the working of the future reforms. Now, if that is really in their minds, Sir, then here is a good opportunity for creating such a favourable atmosphere for the working of the new reforms; moreover, by removing such obnoxious legislation, they would afford a great relief to the people in the country and that will conduce to the creation of the favourable atmosphere which is so much to be desired. It is for that reason also that I request that a time-limit should be placed and such limit I propose should be "until the new constitution for India comes into operation". With these words, Sir, I move my amendment, and I request the Government to give their serious consideration to this amendment.

**Mr. S. C. Mitra:** Sir, I support the amendment of my friend, Mr. Reddi. Sir, it is a very reasonable amendment also. I had my apprehensions that perhaps it would be considered to be not in order, not to fix a definite period, but if this amendment is in order, then I wonder what objection can Government have to accepting this amendment. I think in this matter we will have the co-operation of my friend, Mr. Yamin Khan, because it was his suggestion that this Bill should be for the *interim* period till the new constitution is launched fully; and so, if it is acceptable to other Members of the House, who usually do not vote with us, there is some chance of its acceptance by the Government.

**Mr. C. S. Ranga Iyer** (Rohilkund and Kumaon Divisions: Non-Muham-madan Rural): Sir, I rise to oppose this amendment, and I oppose it for this reason. I refuse to give the Government so far as I am concerned—and I speak for a constituency from the United Provinces where there has been a great upheaval of public opinion—I refuse to give the Government even the restricted—though I do not think it is restricted—power to continue the Ordinance so long as the new constitution does not come into operation. As I said, when I opposed the Ordinance Bill when it was introduced, it is most objectionable to suppress the agitation which is bound to surge in the country during the period when India wants to agitate and see to it that her agitation succeeds to secure new reforms. As Dryden said:

"More liberty begets desire for more :

"The Hunger still increases with the store."

With the store of the Montague reforms, there has been growing hunger for greater reforms and that hunger finds expression in the Indian Press and I will not be a party to granting the Government any power to work the Ordinances in the country with the sanction of the Legislature until the new reforms come into operation, and, therefore, I oppose this motion.

**The Honourable Sir Brojendra Mitter** (Law Member): Sir, there are two objections to this amendment: one is the drafting objection which my Honourable friend, Mr. Mitra, indicated. It is one of the fundamental rules of drafting that you must have a definite commencement and a definite termination for any measure. The amendment suggested is, to say the least, indefinite "until the new constitution comes into operation". Therefore it is objectionable from that point of view. If you had said 1st January, 1934, or 1st April, 1934, or 1st January, 1935, it would have been a definite date and the objection would not hold; but this is too indefinite. The second objection is this: it is not outside the bounds of

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possibility that the new constitution will come into operation at different times: for instance we have seen it in the papers that suggestions have been made that the new constitution will come into operation in the provinces in the first instance and, at some later period, in the Centre. (Laughter from the Opposition Benches) (*An Honourable Member*: "The cat is now out of the bag"). Which is the date of the new constitution coming into force—in the provinces or in the Centre? I am only indicating possibilities. That is the second ground of indefiniteness so far as drafting is concerned. Then on the merits. My Honourable colleague, the Home Member, has made it perfectly clear in the course of this debate that the intention of Government is to hand over the weapons to persons who will be running the new constitution and we do not want to handicap them at the start of working the new constitution by the absence of these powers. Sir, I oppose.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in sub-clause (3) of clause 1 of the Bill, for the words 'three years from its commencement' the words 'the time until the new constitution for India comes into operation' be substituted."

The motion was negatived.

**Mr. S. C. Mitra**: Sir, I move:

"That for sub-clause (4) of clause 1 of the Bill, the following be substituted:

"(4) No section of this Act shall come into force at once, unless any Local Government may, by notification in the local official Gazette, direct that any particular section shall come into force in any area on such date as may be specified in the notification."

In the Government Bill itself in sub-clause (3), there is a provision that sections 4 and 7 will not come into force automatically, unless any Local Government, by notification in the official Gazette, declare them to be enforceable. My purpose is only to enlarge that sub-clause. It has been admitted that the offences that are likely to be controlled by the provisions of this Act are not frequent in every province in India. If we look to the sections, *e.g.*, section 2, that is, dissuasion from enlistment of persons entering the Military, Naval, Air or Police Forces, I think a large portion of it is not in any way concerned with my province. There are other provinces also where this section is not at all applicable, because there are no cases occurring there. If provisions like boycotting of public servant or section 7 dealing with molestation or picketing, if they are optional with Local Governments for applying for enforcement, why not the other provisions which are admittedly not so frequently happening in other parts of India, should not be left to the choice of Local Governments to apply for? Some of the provinces are already providing for some of these provisions. As regards clause 8, that is, the power to order parent or guardian to pay fine, Bengal, Madras, Bombay and United Provinces—four big provinces—have already legislation to that effect. So, on general grounds, instead of making this whole piece of legislation enforceable throughout the length and breadth of India from the day it is enacted, I suggest that Government may accept this amendment so that any province that may be particularly suffering from any of those difficulties might by notification alone have it enforced. The general ground of the Honourable the Home Member that

it will take a long time to enact the law again in the provinces will not apply, because by merely inserting a few lines in the local Gazette they can have it applicable in the province. Sir, I move my amendment.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Amendment moved:

"That for sub-clause (4) of clause 1 of the Bill, the following be substituted:

'(4) No section of this Act shall come into force at once, unless any Local Government may, by notification in the local official Gazette, direct that any particular section shall come into force in any area on such date as may be specified in the notification'."

**Mr. C. S. Ranga Iyer**: Sir, I rise to oppose this motion, and if I do so, it is because I refuse to put this powerful engine of oppression into the hands of any Local Government; for as Milton said, it is "a devilish engine" which "back recoils". I refuse to allow this engine to recoil on the struggle for reforms which is going on in the country. I do not have any confidence in the capacity of the Local Governments to administer the new measure any better than the Government of India. Therefore, I oppose this motion.

**Mr. K. P. Thampan** (West Coast and Nilgiris: Non-Muhammadan Rural): Sir, I have also given notice of an amendment more or less analogous to the one under discussion. Conditions, I mean the present unrests, vary in different provinces. In Madras, for instance, people have imbibed the non-violent character which is the essence of the great Mahatma's doctrine, and are confining themselves only to *khadi*, peaceful picketing of liquor and *Bideshi* shops and other non-violent activities. You must be aware, Sir, that since the lamented murder of the late Mr. Ash in Tinnevely about 20 years ago, there has been no political murder of any kind in my Presidency, and there is absolutely no need of a legislation of this kind there. It was widely talked about in Madras that the Local Government did not want this legislation. Besides Madras, there are other provinces where the political atmosphere is comparatively quiet. Why should this Bill be made applicable to such places? In the interests of peace and contentment, it is highly desirable that such a weapon as this, which is capable of being abused, should not be entrusted to subordinate officials throughout the country. I support this motion.

**Mr. Amar Nath Dutt**: Sir, I am also sorry that I have to oppose this amendment, except for the principle laid down by the Law Member. If, instead of the words "no section of this Act shall come into force at once", my friend had put the words "the Act will come into force from the 1st of April" like the official year, I would have been the first to accept the amendment, but since he has not done so, I am sorry I am obliged to accept the principle laid down by the Honourable the Law Member.

**The Honourable Mr. H. G. Haig**: Sir, the provisions relating to the Press must clearly be in force throughout India. It is not feasible to have these regulations relating to the Press in force in one part and not in another, for the fact that certain areas were omitted from this control would at once lead to papers being started there. We have in fact recognised that there are certain powers which it is desirable should not be in force if there is no definite organized movement at the moment to deal with which those powers are required. We have, therefore, provided in

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sub-clause (4) that section 4 dealing with boycott and section 7 dealing with picketing shall not come into force without notification. The other powers, Sir, I maintain, it is reasonable should come into force at once.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question which I have to put is:

"That for sub-clause (4) of clause 1 of the Bill, the following be substituted :

'(4) No section of this Act shall come into force at once, unless any Local Government may, by notification in the local official Gazette, direct that any particular section shall come into force in any area on such date as may be specified in the notification.'

The motion was negatived.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Sir Hari Singh Gour.

(The Honourable Member was not in his seat.)

**Mr. K. P. Thampan**: Sir, I beg to move:

"That in sub-clause (4) of clause 1 of the Bill, after the words 'Local Government may' the words 'on the recommendation of the Legislative Council of the Province' be inserted."

The object is quite obvious. I want that the Government should have the moral support of the people of the locality before they introduce these clauses in any province. It has been said that the Government and the Secretary of State are willing to introduce complete provincial autonomy without waiting for the next reforms, and so this is the acid test of their *bona fides*. If they are sincere in their declarations, the Government ought to accept this amendment.

**The Honourable Mr. H. G. Haig**: Sir, we propose by this Bill to give certain powers to the executive Government and to provide for certain new forms of offences. We cannot agree that these powers can be rendered nugatory by the Resolution of any local Legislative Council. Sir, I oppose the amendment.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question that I have to put is:

"That in sub-clause (4) of clause 1 of the Bill, after the words 'Local Government may' the words 'on the recommendation of the Legislative Council of the Province' be inserted."

The motion was negatived.

**Sir Hari Singh Gour** (Central Provinces Hindi Divisions: Non-Muhammadan): Sir, may I crave your indulgence to move my amendment?

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member ought to have been in his seat. He was called but he was absent from the House.

**Sir Hari Singh Gour**: I was doing some other work there.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): That has nothing to do with it. The Honourable Member must be present in the House.

The question is:

"That clause 1, as amended, do stand part of the Bill."

The motion was adopted.

Clause 1, as amended, was added to the Bill.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That the Title and the Preamble do stand part of the Bill."

The motion was adopted.

The Title and the Preamble were added to the Bill.

**The Honourable Mr. H. G. Haig**: Sir, I move:

"That the Bill, as amended, be passed."

**Mr. B. Sitaramaraju** (Ganjam *cum* Vizagapatam: Non-Muhammadian Rural): Sir, though form requires before the third Reading that a motion should be made that "the Bill, *as amended*, be passed", I am afraid no amendment has been made except the rejection of an absurd *Explanation*. This Bill has emerged from the Select Committee as an Ordinance and has taken the shape of a steam roller on the floor of this House, and as such it has though slowly but steadily crushed every opposition made to it. Its easy passage does not reflect any credit on the Opposition, but that is another story. Degenerated and dispirited as we are, we could only appeal to statesmanship and humanity, but, Sir, a steam roller has neither statesmanship nor humanity, and we could not even save an invalid from being crushed by this repressive legislation. However, I would welcome the provisions of this Bill if I were a terrorist. The provisions of this Bill constitute an invitation to swell the ranks of terrorism by suppressing all expressions of political thought in this country, and that result is obvious. It is very remarkable that the Honourable the Home Member, who was very anxious to spare the future Government from the terrors of terrorist activities, should constitute himself as the recruiting agent to swell the very ranks of the terrorists. His intention may be good, but the remedy he has employed is the wrong remedy, for he is seeking to drive underground all political thought and all political activities. Provisions of this character must necessarily drive political thought underground, political action into secrecy and political opposition into violence. The Honourable the Home Member said that the civil disobedience movement had points of contact with terrorist activities. Orthodox Congress always dissociated itself from all forms of violence. But assuming for a moment that the unorthodox Congress

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activities have established points of contact, I would like to ask the Honourable the Home Member whether, by the provisions of this Bill, he is going to sever those points of contact or going to strengthen the bonds between the Congress and the terrorists? I would appeal to him to take a dispassionate view of the case. Whatever may be those points of contact, it must be admitted that the civil disobedience movement is, after all, a passive resistance movement, and in

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a movement of that description one would think that all the advantages are on the side of the Government. The civil disobedience movement is a passive resistance movement. A description of that movement has been given earlier on this debate by the Honourable the Home Member, but I would like to just describe what the civil disobedience movement really is. It is a movement which acts in the open, in a manner proclaimed from the housetops, and to an extent fully advertised. It goes about unarmed to violate a petty law, courting punishment, suffering indignities. It offers no defence, nor does it seek any evasion. It surrenders voluntarily and leaves the Government to punish it as much as they could, and bears that punishment cheerfully. That is the gist of the civil disobedience movement. (Mr. S. C. Mitra: "Hear, hear.") One would think that if a rebellion against law and order were to take that form, all the advantages were on the side of the Government, because Government would then be able to know with whom they were dealing, and they would be able to know to what extent those who were opposing them would go. Short of contentment with their Rule what other form would the Honourable the Home Member like a movement to take?

I remember the Honourable the Home Member the other day saying that when the Congress was taking to direct action they were placing themselves outside the pale. What was the Congress doing for half a century? For half a century the Indian National Congress never took to direct action. That was exactly the record of the Congress before they entered upon the course of direct action. For nearly half a century the Indian National Congress, with the whole of Indian political thought behind them, had carried political agitation in a manner which even Mr. Churchill would approve. In those days the Congress would not dare to think of being free, much less would they ask for it. They asked to be treated only as men, and that in the most orthodox way. They petitioned, they remonstrated, and supplicated. And what was the result? Those petitions were rejected, the remonstrances were set at naught, and their supplications were disregarded. No wonder, Sir, that the Congress lost its faith. They had to come to the inevitable conclusion that it is better to rely upon themselves than upon the justice and generosity of the rulers. They are asked to rely on the Round Table Conference methods. I am afraid, if all that we hear today and we have been hearing in the past were to be believed, our chains have been forged and their clanking can be heard now in the Robe Room of the House of Lords. It must be said to the credit of the Congress that they have chosen a form of activity which is least harmful to the Government or to the public, and which has excited the admiration of the disinterested world. Notwithstanding all the barbarities to which the agents of law and order have subjected them, they remained essentially non-violent under a severe test which did no credit to any Government which call themselves civilised. I might be charged with prejudice if I say anything, but I would like the House to know what disinterested American opinion has to say about it.

"Lathi beatings and other forms of governmental 'firm action' have gone on apace, yet the Indians have remained predominantly non-violent. The longer the repression lasts, the deeper and more widespread grows the Indian bitterness. . . Indian unity increases."

That was the opinion of a disinterested American gentleman.

I am not a Congressman, nor ever was. I have no sympathy with the civil disobedience movement, very much in the same way I would have no sympathy with a man who would like to convince a tiger on the virtues of a vegetarian diet. (Laughter.) The sacrifice, however little it is, is a waste. A Government which put their faith in the mailed fist are incapable of appreciating a sacrifice which could appeal only to all that is best in human nature. Had it not been for the due appreciation of the consequences that are likely to result by the suppression of all political expression, I would have thought the waste of Congress sacrifices would be saved under this Bill and that at any rate is a recommendation in its favour.

The Honourable the Home Member and the Leader of the European Group have both said that it is not the intention under this Bill to suppress nationalism. Nationalism, when once rightly awakened, cannot be suppressed. Nobody need take the trouble to tell us that. If it cannot be allowed to pass on the highways, it will pass through the byeways and if the byeways are blocked, it will pass through underground.

No repressive laws will have any decent chance of success unless public opinion is behind it. The Government ruled with these laws under the Ordinances and the severity of that rule has penetrated the busy cottage, the cultivated field and the industrial houses, and even invaded the seclusion of the *zenana*. What is the verdict of the country today on that rule? Need I remind what the verdict is? It is a strong condemnation of the measures that have been taken, and today that Ordinance regime is consolidated in the form of a legislative Bill, and it is needless for me to say that the worst features of that regime are incorporated in this Bill. They are entrusting unlimited powers to the executive officer. After all, he is an executive officer. He is an interested judge; and in some cases he is the sole judge. He is an arbitrary judge, who proceeds in secret, condemns without hearing, and decides even without appeal. In all these, the public opinion must necessarily rally round the victim of official *zoolum*, and the administration of law and maintenance of order will be rendered more difficult. The indulgence of the public will be in proportion to the rigour of the Government. I dare say Government can successfully suppress the civil disobedience movement as such. But suppression of political activities is another matter. The India Delegation has remarked that the creed of Gandhi was a shield to Government. The Honourable the Home Member was amused when Mr. Gandhi was called by them as the best policeman in India to protect the lives of Englishmen. He would not have smiled had he refreshed his memory with the very passages he himself read on the Terrorist Bill where those terrorists repudiated the policy of Gandhi and condemned the Congress activities, saying that it was too soft and no cure for the political evils of the country. Does not the Home Member think that but for Gandhi political activities might have taken perhaps a different course?

**The Honourable Mr. H. G. Haig:** Who moved the resolution in the Congress applauding Bhagat Singh's character?

**Mr. B. Sitaramaraju:** I do not know who moved the resolution which was moved in the Congress, but all I would say is this. I take my stand firmly on the fact that the Congress has never stood for any violence,



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and it is not the creed of the Congress to indulge in violent activities. The Congress has dissociated itself from violent activities. It has always done that. If, on that occasion, Congress extolled the personal character of Bhagat Singh, it had nothing to do with the terrorist activities of Bhagat Singh. I know that there is nothing which I can say that can alter the pre-determination of the Government. They blundered into a Great Empire. If they blunder out of it, they would be only following the way of Empires, but I would like to say that the consequences of their misgovernment will not only fall on them, but upon us also and we have to pay as dearly as the Government for this misconceived legislation. With these words, I oppose the Bill.

**Mr. P. G. Reddi** (Guntur *cum* Nellore: Non-Muhammadan Rural): I rise to oppose this Ordinance Bill at this late stage, because I am convinced that it is directed against the rights and liberties of the people and of the Press. If the right of holding meetings and conducting papers is to be regulated by Ordinances, all I can say is that our citizenship is reduced to a mere mockery, leaving us practically at the mercy of the police and the district officials. It looks as though India will never be allowed to walk with her head erect in the Imperial family as an equal nation, judging from the scope of the Ordinances which interfere with all the departments of political activity and even our social well being. The temperance movement cannot be promoted any longer than the Swadeshi movement by peaceful picketing. The laws invade even our social sphere and the tentacles of the Ordinances have been stretched so far that even the sins of the son will be visited on the father. I urge on the Government that they should observe restraint and instruct their officers charged with the operation of these Ordinances that they should observe moderation. Even the object of the Government will be defeated by excessive severity and good statesmanship demands that this excess should be avoided. The other day, my Honourable friend, Mr. Yamin Khan, disclosed that it was owing to pressure from the Army Department that this Bill had to be made more rigorous than before. Whatever that may be, and owing to the weakness of the House, it is going to be carried. I trust that Government will instruct their officers to observe moderation in the working of this measure.

**Mr. N. R. Gunjal** (Bombay Central Division: Non-Muhammadan Rural): (The Honourable Member spoke in the Vernacular\*).

**Mr. Muhammad Azhar Ali** (Lucknow and Fyzabad Divisions: Muhammadan Rural): Sir, I must apologise for not having been able, owing to my serious illness, to speak on this Bill, but I do not now think it expedient that I should record a silent vote. Sir, the principles of this Bill, when judged from a juridical point of view and specially from the point of view of criminal jurisprudence, seem to be absolutely unfounded on reason. I say that there is not a principle in this Bill which is not against the principles of criminal jurisprudence. The one principle which runs in every clause of this Bill is that of vendetta or vengeance. If we

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\*A translation of the speech will appear in a later issue of these Debates as an Appendix.

calmly stand here to consider the Bill, we find that it is actually to take vengeance not on young children who have committed some criminal act as defined in the Bill but to wreak our vengeance on parents and I call it nothing less than a vendetta. The other principle which I find lurking in the Bill is, that when in olden days individual vengeance was to be wreaked or satisfied, it was in the form of some monetary compensation. But, Sir, those olden days are gone, society has been formed, the State is here, still we find that that very principle of monetary compensation runs throughout this Bill. The third principle which runs through this Bill is that of terrorism. Government come here to legislate and abolish terrorism but, on the other hand, what do we find? We find that it is terrorism and intimidation which are the guiding principles of this Bill. If you want to confiscate property, if you want to levy fines and realise them in the most extortionate manner, it is nothing short of intimidation. Sir, in this century, to pass such legislation, specially through this Assembly, is simply an intimidation of the whole country and a challenge to rise against this terrorism. The fourth principle which runs through this Bill is that of suppression of justice and equity. You do not allow appeals to the High Courts, you stop civil actions when you confiscate property and you do not leave any remedies for those poor people who do not intend to do any act of civil disobedience. It is only a sort of panicky legislation, and why? Is there fear of any war on the frontier? Is there not peace in India and is there not sufficient army? What is it that you want? Without any rising, without any rebellion, you simply want to crush the spirit of the country and to destroy the civilisation which exists in India. The fifth principle underlying this Bill is the arresting of India's progress in every line, in every walk of life and in every way, in trade, in industry and even in education. You gag public speeches, and writings in the Press, even movements in public places you stop and you check every form of liberty which so long Indians have enjoyed under the peaceful British rule. Sir, the suppression of the Press has been the principle for some time of British rule in India, but at present what we find is that it will be absolutely impossible for any paper to comment on actions of Government or even of Government officials, even in their individual capacity. If you want to stop our lips, hands and feet in every way and tie us down to your orders, it will be absolutely correct to pass this Bill into an Act, otherwise not.

Sir, after enumerating these principles which actually underlie this Bill I will now enumerate the principles of criminal jurisprudence which they set at naught. The first is that elementary principle which you find in every system of criminal jurisprudence, that every person is presumed to be innocent. In every clause of this Bill what we find is that it will be not the business of the Crown to prove a man guilty, but it will be for the man to prove himself to be not guilty.

**An Honourable Member:** That is the case in France.

**Mr. Muhammad Azhar Ali:** I do not care what happens in France. I stand in India and I have to deal with British justice. I do not care for what the French people do or what the French Government are doing. To my friend it may be all right to go to France if he considers that country to be more salubrious than India, but it is only British rule that

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I want to stay under and fight my battle in my own country. The next principle is the principle of *mens rea*, that is, a guilty mind, which is the root of criminality and which has been absolutely neglected and given up in this Bill.

The third principle of Criminal Law is that burden of proof should be on the prosecution—unless it is proved or it appears to a certain extent, *prima facie* that there is some criminality in the offence. That principle also has been absolutely abrogated. Sir, I find that this enactment, even if put on the Statute-book, it would not uproot the civil disobedience movement. I challenge my friends on the Treasury Benches to show that there is a single provision in the Bill to restrict civil disobedience. If a person does any act, not with the intention or the motive of doing civil disobedience, still he will be punished. Is that to restrict civil disobedience? I submit not. At the same time, there are sections about the boycott of public servants. Is the State to guard the rights and privileges of the public servants alone? Is the State not to guard those who amongst the public want to help the Government? There is not a single section to restrict the civil disobedience against the public at large, it is only a form of vengeance on the people. If an ordinary man in the street wants to help the Government and if a Congressman goes to him and wants to behave towards him as they say in the Bill and to talk of taking measures of civil disobedience or some kind of boycott, there is nothing absolutely in the Act to prevent that man. They have taken in this Act certain clauses of English Statute and incorporated them, but I am sorry to mention in this House that though the Statutes may be all right for England, we have not even provided in this Bill any safeguards which exists in those Statutes there; for instance, when you say loitering in the public street will be punished. I submit, in the English Statute, the manner and number of people loitering is also mentioned, and a necessary condition precedents, but there is absolutely nothing in this Act which makes only that kind of loitering an offence. The fourth and the last is the provision of confiscation of property. Those people who know the history of India will support me that it was after the Mutiny alone that confiscation was the order of the day. But we find today after 150 years' rule of the British Government—a civilised rule—that confiscation of property is made the rule of the day by this Ordinance Bill. This monster of a Bill which had its creation in the Simla Session and which has unfortunately lingered on in spite of the attacks that were made by public representatives—it has survived and survived, I must say, again, with a vengeance. This will be only an index of the relation of the rulers and the ruled. I appeal to the Treasury Benches to think what the world outside will think of us Indians: after 150 years of civilized British rule, is this the condition in which they find India? Is this the education which they gave that has brought about such state in the country? Is this the reflection of your civilisation in the country which you have ruled for 150 years? It may be all right for your present purposes, when you are going to stifle our industries as well by the Ottawa Agreement, that you want to stifle our independence; now it may be all right to crush us between these two machineries, but probably this will linger on in the minds of Indians and in future generations: and I would appeal to the Honourable the Law Member and the Honourable the Home Member . . .

**The Honourable Sir Brojendra Mitter:** You appeal in vain.

**Mr. Muhammad Azhar Ali:** . . . . to reconsider this Bill and act according to the principles of criminal jurisprudence and not according to vengeance.

**Mr. C. S. Ranga Iyer:** Sir, . . . .

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Are you likely to take some time?

**Mr. C. S. Ranga Iyer:** I will finish my speech in ten minutes. I thank you, Sir, for asking me whether I would take some time. My object is to finish this Bill today as suggested by you yesterday, so that we might go on to the Ottawa issue and prove to my friend from Lucknow whether we propose to "stifle the industries" of India or not, to use his own expression. The actual experience of a calamity is less fearful than a prospective view of it, and when the Ottawa issue comes, I will be able to show whether our industries will suffer or will not suffer as I have had the opportunity of studying this question sitting late hours into the night and in Committee by day for full fourteen days. Now I would rather deal with something different from Ottawa, something that strikes at the liberties and rights of our people here. The Ottawa Agreement, in my opinion, if closely examined, is calculated to promote Indo-British co-operation in trade matters, whereas this Ordinance Bill is going to strike at the root of our very existence. These law and order people, so wrote Lord Morley to Lord Minto, are sometimes responsible for the "fooleries of history"; and if I may parody Tennyson I can only say, with apologies to that great poet:

Whatever fooleries of law  
Home Member Haig assume,  
Our work is ours,—the single note  
From that deep chord which Gandhi smote  
Will vibrate to the doom. . .

**Sir Abdulla-ál-Mamūn Suhrawardy** (Burdwan and Presidency Divisions: Muhammadan Rural): What poem is that?

**Mr. C. S. Ranga Iyer:** "England and America in 1782" by Tennyson. I would say here, "India and England in 1932" . . . .

**An Honourable Member:** By Ranga Iyer. (Laughter.)

**Mr. C. S. Ranga Iyer:** Yes, with apologies to Lord Tennyson. I will respectfully but anxiously warn the Government and appeal to the Home Member to instruct all those out in the country who happen to be their officials and officers not to override the stunt of law and order, not to ride this Ordinance Bill to death and rough-shod over the feelings of an exasperated people. Much depends on the operation of a bad measure. If a bad measure is operated in a good way, it will not be so bad as it looks at present. Sir, with these words I conclude, once again appealing to him to instruct Local Governments, to instruct local officers, the men on the spot, not to play with the lives and liberties of a liberty-loving people . . . .

**Sardar Sant Singh** (West Punjab: Sikh): Will you then accept the law?

**Mr. O. S. Ranga Iyer:** My Honourable friend from the Punjab asks me "Will you then accept the law?" I have opposed the Bill, and I still oppose the Bill. I know owing to absenteeism of a most deplorable kind on this side of the House, this Bill is going to be passed into law. I know the law will legalise despotism. (Hear, hear.) That is why I oppose it, but I want the Government, if they do not want to disgrace themselves out in the country, to inform the men on the spot not to abuse the law further than they would like to have it abused. (Applause.)

The Assembly then adjourned for Lunch till a Quarter Past Two of the Clock.

The Assembly re-assembled after Lunch after a Quarter Past Two of the Clock, Mr. President (The Honourable Sir Ibrahim Rahimtoola) in the Chair.

**Mr. S. C. Mitra:** Sir, I oppose the passing of this Bill. We have tried in the course of this long debate to make some improvements in this drastic measure, but we have failed. I think the Government fail to appreciate the attitude which actuates us in opposing such measures. It is no pleasure for us to oppose Government measures all along, even when we find that ultimately we cannot gain anything. The time has come when Government should seriously think why this present state of affairs has manifested itself in India. The connection of the Indian people with the British people is not an affair of a few years. The two nations have been in close relationship for more than a century and a half. It was natural that in the beginning of the British connection misapprehension should arise about the attitude of one towards the other. But we find that in the earlier years of British connection, there was contentment and mutual admiration. It is only in the last 20 years that the whole country is seething with discontent, and it admits of no denial. True statesmanship does require that we should go into the inner meaning of the present state of affairs. It has been found that the conditions in the villages, not to speak of the unemployed educated people, have reached their limit. The exploitation that had been carried on for years has brought the people to the verge of starvation, and any attempt merely to suppress the popular discontent will not tend to any lasting result. That is one aspect which we on this side of the House wish to bring to the notice of the Government.

As regards this particular legislation, a mere reading of the clauses may not make it evident how, in the day to day administration, these apparently innocent looking clauses are destroying the peace of the illiterate villagers. Discontent was first confined to the educated classes, but legislation of the present kind is going to the very basis of society, and even innocent and illiterate villagers in remote parts of the country will be affected. My Honourable friend, Sardar Sant Singh, has quoted authorities and I can quote from the great English political philosopher Burke himself as to what conditions justify even extreme steps for a nation. But today I do not want to deal with those general principles nor shall I go in detail into the clauses, because we have done it for the last fortnight. I shall confine my remarks to the Press clause in some

detail. As regards clause 2, as I have said, we in Bengal are not affected at all. Clause 3 deals with tampering with public servants. In these days of unemployment I do not know even the Congress agitator or civil resister will be successful in carrying out their object. As I have said many a time, these clauses are not useful or even necessary. But I should like to submit to the House how the application of these innocent looking clauses will hamper the people. Clauses 4 and 7 are very wide and will affect all classes of people. I shall not deal with those clauses now. Let me say something about the clause which deals with the Press—clause 16. When it is expected that India will have a better constitution, is it good even in the interests of the Government to alienate the sympathies of the Press? In the coming constitution, those who will be on the Government Benches as well as those on the Opposition will greatly need the full co-operation of a free and independent Press. I sincerely believe that the present piece of legislation will greatly and seriously hamper its work. Let me quote from my own personal experience.

We sometimes hear in this House of the abuses by the police and other officers. Last time when I had been to Calcutta, I made an endeavour to ascertain the actual facts from authentic reports so that we can place them before the public. The enquiry was made by a gentleman who served in the army during the last war; he was a temporary Captain. I have his report before me, and, if necessary, I shall produce it. When I got the report, I wanted all those things to be published in the Press, because that was the easiest way to draw the attention both of the Government and the public. It is not unusual that high Government officials who are far distant from these localities are not in touch with the daily administration. So with that purpose I asked the gentleman to have it published in the Press, but every Press in Calcutta refused because of the Ordinances, though the gentleman had accepted responsibility for the statements. This is the hardship that will happen if this drastic legislation, which has been in force for the past 10 or 11 months, under the Ordinance regime, is passed into law. I should like to put on the table\* for the consideration of the Members some extracts from that report, as to how the abuses occur and how innocent people suffer. As I said before, it is both to the interest of the Government as well as of the people that they should know what is actually happening. The report is in Bengali. He gives instances under 23 categories of the illegalities that are being committed in the villages in the name of law and order. I shall only read a few of them.

I am speaking of two thanas, in the Tamluk Sub-Division of the District of Midnapore. This gentleman is a well-known man. He personally visited 16 villages, *viz.*, Kashipur, Dandipur, Dwaik Bari, etc. For the realisation of punitive taxes in the villages recourse was taken to kicking and other physical inflictions and sometimes they went so far as to give villagers a good ducking in the village ponds. The boys were beaten in the presence of their father and the parents were tortured in the presence of their sons and daughters. The furniture of the houses were broken. Paddy and rice were looted from the granaries known as *golas*. The wooden house doors and windows and even the ploughs were used as fuel by the police stationed in villages. Houses were razed to the ground and, in several places, burnt to ashes. He also refers to oppression on women. He gives instances of two women on whom rape was committed. I have here their photos together with their statements

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\*Placed in the Library of the House.

[Mr. S. C. Mitra.]

and thumb impressions which I place on the table\* of the House for the inspection of Honourable Members as well as of the Government. It is known that in Eastern countries chastity is so highly valued that when a woman loses her chastity, she is outcasted. Therefore, no woman in India will ever make a false statement that rape was committed on her. I read one of them. In the statement, she says, her name is Kusum Kumari Mondal. On the 15th September, on Thursday night, she was sleeping with her husband. At about midnight, a contingent of police came and took away her husband and all the male members from the adjoining house. Sometime after, her brother-in-law alone returned. Afraid to live alone, she went to her brother-in-law's house. She was in bed with her sisters-in-law and other females when a Pathan police came and again took away her brother-in-law. That police man came back and with the help of a torch light picked Kusum and forcibly dragged her to her house and beat her, when she screamed, gagged her, and committed rape on her. Her thumb impression and statement are laid on the table\* of the House. Another case of rape is that of Sushila Bala Pradhan of Sutahata. I place also her statement with thumb impression on the table\* of the House. To save herself from police, she took shelter in the house of another woman, Puti, a neighbour, who was not assessed with any punitive-tax, because she was too poor. The police knocked at the door and asked if there were any volunteers in the house and wanted to see the house and personally satisfy themselves. They opened the door. Instead of looking for volunteers, they closed the door and forcibly thrust Janaki and the other female into another room. Then she was threatened and raped. These are the statements of the women and there are their thumb impressions also. I place them on the table\* of the House so that Honourable Members can see them if they want to. There are here six other statements of Kheonankari Banick, Giribala Roy, Bilashini, Parul Bibi, Bishnu Maiti and Saraswati Pal who definitely allege that attempts were made to outrage their modesty. I shall not go into details. The statements are in Bengali.

Now, I shall deal with cases of wanton destruction of property; I shall only read a few. On the 28th September, 1932, in the village of Hadia, in the house of one Purna Chandra Das, the police destroyed everything, not sparing even religious books, co-operative bank accounts, and the plough was also burnt. Here is a picture of that. (Shows the Photo). Then there is another photograph—it is of Kashipur—of the house of Hirday Nath Das, Pleader, showing how the Pathan police were cooking their food including fish and meat and how they destroyed some of the properties, and their family “Laxmi Thakur” was removed from the pedestal. That is a photograph to demonstrate how it has been done. There is another. The time of occurrence is 10th September, 1932. In the house of Mahendra Nath Jana of Dalimba Chauk, Sutahata P. S. All his moveable properties were looted, and even the image of the goddess “Laxmi Devi” was thrown away from its place. The other is about the occurrence of the house of Jogendra Nath Kalsa of Dundipur on the 22nd September, 1932. Here the District Magistrate, Mr. Burge, and the S. D. O., Mr. Richardson, were also present when the police destroyed their granary and spoilt the paddy collected there. This is the photograph of that place.

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\*Placed in the Library of the House.

(Shown.) Here is another case where, in the village of Bar-Basudebpur, in the house of Brojalal Kniti, the Bhagwat-Geeta was torn to pieces and put into the boiling *handi*, and the man was beaten. This is the statement, and this is the photograph, which will indicate how these things are done.

**Mr. K. Ahmed** (Rajshahi Division: Muhammadan Rural): These were in the pre-Ordinance days?

**Mr. S. C. Mitra**: I am giving you the date at every time—September last. In the village of Hadia, in the house of Kartick Chunder Das, the punitive police burnt the teakwood furniture and burnt the doors and windows. In the same village, in the house of Pran Krishna Das, they entered the temple and stole ornaments even from the body of the image of the family-god. I particularly give these instances to show that in eastern countries people are very sensitive when their religious sentiments are hurt in this way, so that the mighty Government at Simla also should know how the day to day administration is being carried on under the Ordinances that are now going to be made law.

**Mr. K. Ahmed**: Did not the parties file complaints before the Magistrate or lodge information at the police station?

**Mr. S. C. Mitra**: There are number of pictures taken. I am now showing to the House a few only to prove that we do not draw these pictures from our mere imagination. Here is another case where, on the 24th September, 1932, in the house of Bihari Lal Maiti, for a tax of Rs. 24-9, 320 maunds of paddy were taken away in the absence of male members. Then this is another picture of a place where Swadeshi Khadi is sold, and they have destroyed all these things. Of course they may have a special grudge against the Swadeshi-Wallas. (Photo shown.) This is the photograph of the house of Ajit Kumar Maiti of Dari-Bera, where the doors and windows have all been taken away, and property destroyed. Here is the photograph of a place of the house of Rakhal Chandra Samanta of Hadi where the corrugated tin shed has been destroyed. Here is a picture of a house belonging to Gora Chand Kalsher of Dundipur village where the cottage has been destroyed and all the thatched roofs have been brought down. In the picture here it is so clear—showing how the mischief has been done.

**Honorary Captain Rao Bahadur Chaudhri Lal Chand** (Nominated Non-Official): Are these instances of operations during the no-tax campaign?

**Mr. Amar Nath Dutt**: They are instances of the administration of British justice.

(Further interruption by Honorary Captain Rao Bahadur Chaudhuri Lal Chand.)

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Order, order. The Honourable Member does not yield.

**Mr. S. C. Mitra**: Sir, I am not yielding. Here is a photograph of a place where all the trees, banana trees, were cut, etc. How all these things are necessary for the realization of a tax one can easily imagine!



[Mr. S. C. Mitra.]

Here (showing the Photo) on the 24th September, 1932, at about one o'clock, the second officer of the thana, Dharendra Nath Chatterjee, went to the house of Sukumar Maiti for collecting the tax, but he destroyed his thatched house and his walls. This is another picture of a house of Keshab Chandra Mandal of Dundipur where all the ceilings have been destroyed. How the destruction of property or the ducking of a man in the tank helps the realisation of punitive tax has got to be explained. This is another picture of a stationery shop belonging to Nagendra Nath Das where the entire property was destroyed. Now, this is the picture of a pharmacy where all the medicine bottles have been thrown out and destroyed.

The other day, my Honourable friend, Sir Muhammad Yakub, was very anxious for rendering medical assistance to the public servants, but perhaps in a village there is only one pharmacy and that being destroyed—of course the public servants can go to town—all the villagers are deprived of medical assistance at least for months.

**Sir Muhammad Yakub** (Rohilkund and Kumaon Divisions: Muhammadan Rural): Probably they were induced by the Congress volunteers.

**Mr. S. C. Mitra:** But that is no reason why the officers of Government should take law into their own hands and destroy the property of these villagers. It might be, as Sir Muhammad Yakub said, that they have been led astray. That may be admitted; but even then, where is justification for such tyranny? I have given instances of at least two occasions where women have been raped and six or seven cases where attempts have been made at outraging the modesty of women, and several cases where the people's religious feelings have been wounded by throwing away their family-gods, and cases where even the District Magistrate was present when some of these atrocities were committed. I place all these things before Honourable Members; there are a few others, but I do not like to take more time. I place them all here so that the Government might know that what they consider to be so simple—passing a law here, sitting here in the cool climate of Delhi—is not so simple; these laws are to be administered by unscrupulous officials, and I want to show that the people who are so "perverse-minded" like the Congress people are not the only sufferers, but so many others who are innocent.

**Mr. Amar Nath Dutt:** Some of the officers here are laughing!

**Mr. S. C. Mitra:** I do not like to refer to those who, upon hearing all these atrocities, may be laughing. Let them enjoy it to their heart's content. 'When Rome was burning, Nero was fiddling'.

What I say is, that these laws are not so innocent as they look, and day-to-day administration of such drastic laws generally leads to tyrannies. Most of the illiterate people, as Sir Muhammad Yakub said, might have been misled by the Congress people. Even conceding for the sake of argument that they refused to pay the taxes, why should Government officers go beyond the scope of the law? They went there to realise the punitive tax and they should certainly be entitled to do that, but there are innumerable cases to show that for the sake of realising two or three rupees they have destroyed property worth two or three hundred rupees. If in these hard days this sort of administration goes on, I can assure the Honourable the Home Member that no amount of further legislation will

help him. He may have martial law if he likes,—and perhaps the only difficulty in having martial law is that Government are short of military officers. My main contention was that if wide powers are given by any of these sections, they are sure to be abused, especially when some of the officers have the impression, as the Honourable Sir Leslie Hudson did say in this House, that they are in the midst of war and “everything is fair in love and war”. So, they are out to punish the people in any way possible, fair or foul. (Interruption.) My friend says, they want to strike terror. If that be the object, then let them do it by declaring martial law or suspending civil laws for some time, but not under the cloak of a law which was formerly an Ordinance for which His Excellency the Governor General alone was responsible and now this House is asked to share the moral responsibility of all those enormities that are being committed in the name of law in these villages in Bengal. Sir, these are the reasons why I oppose this Bill. I have in this report in my hand detailed instances how these two police stations of Satahata and Nandigram in the district of Midnapore, in Bengal, are being dealt with, but, because of the Press law, it is impossible to ventilate the feelings of the people and give an account of the facts and occurrences that are happening every day. I think it is as much dangerous to the Government as it is to the people to suppress the Press by this drastic legislation and I oppose it.

**Mr. Abdul Matin Chaudhury** (Assam: Muhammadan): Sir, I have got in my hand a copy of a telegram that was sent to the Private Secretary to His Excellency the Governor of Bengal by the Imam of the Jama Masjid of Chittagong.

**Mr. S. C. Mitra:** I have already read it in the House.

**Mr. Abdul Matin Chaudhury:** I understand this telegram Mr. Mitra read out to the House yesterday. It gives a picture of the Ordinance rule at Chittagong and the incident occurred there during the days that the Honourable the Home Member was expounding, before this House the exquisite beauties of the Ordinance. I think I had better read out to the House this telegram so that it might attract the attention of the Members that it deserves. It runs thus:

“Grossly insulting searches of about 150 respectable Moslem houses of Alkaran in the town made Wednesday 16th instant on meagre information regarding absconders. Indignities caused to pardanashin ladies, some inside the house and some dragged to considerable distance and exposed in public street after removing male members under arrest to another place. Some pardanashin ladies roughly handled and rudely treated in the name of searches and Moslem males beaten and some grossly insulted. Mosallies stopped from going to mosque. Moazzen of Alkaran mosque threatened with bayonet and revolver to prevent Azan of afternoon prayer. In view of these facts learn great consternation causing bitter resentment and indignation in the Moslem community. This large mass meeting assembled at Jameh Mosque premises on Friday 18th instant at 2 p.m., after Juma prayer under the presidency of Jameh Mosque Imam severely condemns such outrageous deed on innocent peaceful Moslem citizens of town and urges on His Excellency for an immediate inquiry by an impartial Commission of officials and non-officials and for proper and adequate redress.”

**The Honourable Mr. H. G. Haig:** Will the Honourable Member also read out the reply given in the Bengal Legislative Council to these allegations?

**Mr. Abdul Matin Chaudhury:** No copies were sent to me and I am not aware of them. Sir, I have read out this telegram for the benefit of those of my co-religionists here who are under the delusion that this Ordinance is meant only to deal with civil disobedience movement and only the Hindus will be affected by it. Sir, His Excellency the Governor

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of Bengal in the St. Andrew's Dinner testified that the Mussalmans had no share in the terrorist outrages. I am sure, my friend, Mr. Anwar-ul-Azim, will very vehemently protest that the Muhammadans kept themselves away from the civil disobedience movement. Not only that, when Inspector Ahsanullah was murdered, the Mussalmans went to the length of committing excesses on their Hindu neighbours. (Mr. Anwar-ul-Azim: "Question.") My friend, Mr. G. S. Dutt, reminded us the other day of the Bengali adage—"the man for whom you commit theft calls you a thief". The Mussalmans of Chittagong must be pondering over the wisdom of this adage these days. Sir, to give the Government the credit where it is due, it must be said that they are impartial, impartial in the abuse of their power where the Indian community is concerned. Speaking as a Mussalman, I feel that our community has been and will be the worst sufferer under these Ordinances because our power of resistance is the weakest. Under these Ordinances, the Frontier Mussalmans have been terrorised; the Red Shirt movement has been crushed; the Ahrars have been suppressed; the Muslim Press has been throttled; and even in this Imperial City of Delhi, under the very nose of the Government of India, the sanctity of the Muslim mosque was violated. Wherever the Mussalmans have shown any sign of life, activity or vigour, they have been put down with an iron hand and there is nothing to be surprised at this, because when you give this autocratic power to the irresponsible executive, it is bound to be abused. When pestilence like malaria or plague or Ordinance sweeps over the country, it makes no discretion of Hindus and Muhammadans and I hope my friends who are going to support this Bill will ponder over this. It must be apparent to the Honourable Members that my attitude towards the Bill is one of uncompromising opposition, because I agree with most of my friends on this side of the House that the remedy suggested will not cure the disease. If, Sir, I am permitted to draw an analogy from the medical science to which most of the Honourable Members have resorted for analogies, I would say that the Honourable the Home Member has failed to diagnose the temperature in the body politic of India. Finding, Sir, the rise of temperature in the patient, he has prescribed the quinine of the Ordinances, sugar-coated, if I may say so, with the genial smile of the Honourable the Home Member. But this, Sir, is a quack remedy. What India is suffering from is consumption, slow gradual decay of the vitality of the nation, the vitality which has been sapped and undermined by years of misrule and maladministration. It will not merely do to put down the temperature by an injection of Ordinances. What is necessary is the revitalising elixir of complete self-government, if we are to effect a radical cure. Quack remedies will only aggravate the malady. This civil disobedience movement owes its origin to misrule and maladministration, as I have said, and it gathers strength and momentum because of the continued stifling of the legitimate aspirations of Indians. The remedy for the present state of affairs does not lie in crushing the civil disobedience movement, but in putting an end to that system of administration which gave rise to the civil disobedience movement. For a radical cure you must deal with the ultimate causes and not merely with the approximate causes.

Now, Sir, what are these Ordinances? They restrict our freedom of movement, ban our freedom of association and gag our freedom of expression. So it practically means the strangulation of all healthy political

activities in the country. And yet the Honourable the Home Member thinks that we are so demoralised that he asked for our co-operation in passing this Bill and forging fresh fetters for our bondage. I for one refuse to be made a cat's-paw of the bureaucracy. It is their narrowness of outlook and short-sighted policy which has brought about this crisis in the country and it is no business of mine to draw their chestnuts out of the fire and help them in administering the country. Sir, I claim no originality for the remedy that I suggest; it has been placed before the House times without number. The remedy lies in granting full responsible Government, federation or no federation. These Honourable Members who are occupying those Treasury Benches have no right to be there,—those seats belong rightfully to the elected representatives of the people. They will have to be ousted from those seats. Those gentlemen who are sitting behind them have also no business to be there. That entire block ought to be chucked out of the House.

**An Honourable Member:** Then who will remain in the House?

**Mr. Abdul Matin Chaudhury:** We will remain, Sir. If that means capitulation, I am afraid, the Honourable the Home Member  
 3 P.M. will have to swallow that bitter pill sooner or later; and the sooner he does it, the better for all concerned.

**Sir Hari Singh Gour:** Sir, with a great deal of reluctance, but with a certain degree of confidence engendered by a recent ruling of the Calcutta High Court upholding your decision given the other day, I wish to recall my objections to this Bill; and, in doing so, I shall categorise the points upon which I invite your ruling. If you turn to clause 13 of the Bill and the various provisions which are intended to be added to the Criminal Law Amendment Act (XIV of 1908), you will find under the proposed section 17B, after the forfeiture has been incurred and made, an adjudication under sub-section (6), that is, a limited adjudication:

“Where any such representation is rejected, the representation, with the decision thereon, shall be forwarded to the District Judge, in the case of a decision by a District Magistrate, or, to the Chief Judge of the Small Cause Court, in the case of a decision by the Commissioner of Police, and no order of forfeiture shall be made until the District Judge or Chief Judge of the Small Cause Court, as the case may be, has adjudicated upon the representation.”

Then, sub-section (7) says that the decision of such Judge *shall be final*. A point was raised yesterday by one of the occupants of these Benches that the use of the word “final” precludes an appeal and an application for revision to the superior Courts; and my Honourable and learned friend, the Leader of the House, assured him, and through him the House, that the finality of the order mentioned in this sub-section would not preclude the filing of an appeal or the making of an application for revision. My Honourable friend, the Law Member, nods his head. Well, I am then fortified by the nodding of my friend's head in my view that he did not mean it and that final means final. But he will have his chance to translate his dubious nods into audible words. In the meantime I may be permitted to state my objection. There have been rulings by the High Courts and by the Privy Council, and the cases are all collected in the latest case that I have been able to get, namely, I.L.R. 4 Rangoon, p. 508, and the point under discussion is at page 511. The point that arose in the Rangoon High Court was that under the Land

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Acquisition Act, the decision of the Chief Court, as the Rangoon Court then was, was made final; and the question arose as to what was the meaning of the word "final". Did it preclude an appeal to the Privy Council or did it not? And the language of the learned Judges at page 511 is as follows :

"It has been argued for the appellants that the word 'final' here used means nothing more nor less than the same word that is used in the Code of Civil Procedure as the opposite of interlocutory. In my opinion, however, and having regard to the special statute, the word 'final' is used in quite a different sense, and the word 'conclusive' represents its real meaning."

Then they go on to cite several cases including Lord Macnaughten's judgment in the Privy Council case and fortify their arguments which they have stated. And the conclusion to which they arrived was that whenever in any special Statute the word "final" is used, there can be no appeal. And their Lordships of the Privy Council have further said that it is the policy of the law that where the Legislature did not give a direct appeal, there cannot be an interference by the superior Courts in an indirect manner through the backdoor of revision.

Now, these were the cases that confronted us and do confront the learned occupants of the Treasury Benches. On the last occasion, in connection with this Bill and another previous occasion in connection with another Bill of the same character, I raised the objection that portions of this Bill or portions of that Bill which precluded the subject from filing an appeal to the High Court and took away the jurisdiction of the High Court were *ultra vires*, and you, Sir, upheld my objection. Since then a case arose in the Calcutta High Court. Unfortunately I have not been able to get the full facts of that case, because the only telegram I have is the Associated Press Telegram, dated the 2nd December, 1932: it came this morning and I will read a summary of the decision of that High Court:

"Treating petition of appeal filed by Manmatha Nath Biswas from jail as application under section 107 of the Government of India Act, Chief Justice and Justice Pearson at High Court today directed acquittal of appellant (Biswas) who was convicted by S. K. Sinha, Chief Presidency Magistrate, sitting as Special Magistrate under section 19(f) of Arms Act read with section 34 I. P. C. and sentenced him to two years' rigorous imprisonment. Chief Justice in course of judgment observed that on Magistrate's own view of fact, Lordship did not know how he could in law convict accused under section 19(f) Arms Act as in Lordship's view this conviction rested upon no evidence and Lordship think it should be set aside under section 107, Government of India Act. Neither Lordship could convict appellant on charge of abetment of offence in view of evidence."

The point that arises in this case is this: The Government have made the decision of the District Judge as final under that clause. The Privy Council and all the High Courts have held that the word "final" means conclusive; in other words, whenever the Legislature says that a certain thing is final, it precludes the possibility of an appeal; and Their Lordships of the Privy Council have held that when there is no appeal, there cannot be any revision, because the Courts cannot do indirectly what has been directly forbidden by the law . . . . .

**The Honourable Sir Brojendra Mitter:** Has my learned friend any authority for the astounding proposition that where there is no appeal there is no revision?

**Sir Hari Singh Gour:** You want that? It is a case reported in 12 Bombay and I will give the very words shortly. I am quoting from the words of the High Court Judges. Now the position is this: we are driven to this position. The Government propose to enact in this Bill a clause making the decision of the District Judge as final and the question, therefore, arises as to whether the jurisdiction of hearing an appeal by the High Court is not excluded by the provisions of this Act. I have read to you the summary of the judgment of the Calcutta High Court. Let me recall to you the facts of that case so far as I have been able to gather them. I speak subject to correction, because my Honourable friend, the Home Member, must be in full possession of all those facts . . . .

**Mr. K. Ahmed:** Sir, may I ask a question? Suppose a First Class Magistrate fines you five rupees for a certain offence against the byelaws that you commit and then there no appeal lies against his order, because he is a First Class Magistrate; but there is a revision. Is that not so according to the Criminal Procedure Code on which you are one of the authorities?

**Sir Hari Singh Gour:** I am afraid my friend has not understood the point and I am not, therefore, able to reply to his question.

**Mr. K. Ahmed:** You cannot give reply, because you are caught and cannot get out.

**Mr. Gaya Prasad Singh:** This is a law point you cannot understand.

**Sir Hari Singh Gour:** My learned friend asked me, where is the authority for this astounding proposition? Here is the authority for that proposition. Ameer Ali's Civil Procedure Code, p. 460, and the footnotes give all the cases. The authority is:

"An erroneous decision of a Court having jurisdiction can only properly be corrected by appeal; and if the right of appeal does not exist, the same results which an appeal would give cannot be arrived at indirectly."

**Mr. K. Ahmed:** What is that again, the Civil Procedure Code?

**Sir Hari Singh Gour:** Now the point is very briefly this: the decisions of the Courts are as I have stated; and the use of this word "final" would, therefore, preclude not only an appeal but a revision. But I go further. If the intention of the clause by using the word "final" was to prevent an appeal being filed, then, I submit, it contravenes the provisions of the Government of India Act; and my authority is the latest ruling of the Calcutta High Court; and also the ruling which you, Sir, gave the other day. I submit that this Legislature, as a subordinate body, has no jurisdiction to take any case in which the participation of a judicial officer is invited from the cognisance of the High Court under section 107 of the Government of India Act. The position that has been created by this enactment is so absurd that I shall in a few moments explain it. All the Chartered High Courts are protected by section 107 of the Government of India Act under their power of superintendence, direction and control. Consequently they can defy anything that this House or the other House may do. But this Act is an all-India Act; it applies to our Frontier

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Province and other provinces; they have got no charter; the High Courts there are constituted by local Acts, and though in those local Acts the power of superintendence has been given, the fact remains that being Acts of a subordinate Legislature, even more subordinate than this, those Acts cannot give the non-Chartered High Courts the jurisdiction which the Chartered High Courts possess under section 107 of the Government of India Act. The position, therefore, under this Act would be an anomaly. Those who live under the direction of the Chartered High Courts can go to the Chartered High Court and defy this law and say "we come under section 107". Here also the attempt was made that whenever there is a trial by a Special Tribunal constituted under the Bengal Act, there would be no appeal; the decision would be final except in the cases where the sentence is of longer duration, and the Calcutta High Court held that they have jurisdiction in spite of the provisions of the Indian Act. But other Courts will be bound by the provision of this Legislature, because they have not the protection which is given to the Chartered High Court by section 107 of the Government of India Act. You are, therefore, giving some people justice and withholding it from the others. Is this fair? Is this just? Consider it and you will at once see that this objection that I am raising is not without force. This is my first point.

**The Honourable Sir Brojendra Mitter:** Will the Honourable Member kindly formulate what precisely his objection is?

**Sir Hari Singh Gour:** I hope, Sir, I have made my point clear to you, but I will now try to make it clear to my Honourable friend on the other side.

**The Honourable Sir Brojendra Mitter:** I do not want my Honourable friend to make the point clear to me, but I want him to formulate his objection that this Bill is *ultra vires* of this Legislature, or whatever his objection may be.

**Sir Hari Singh Gour:** The objection is that by enacting that the decision of the District Judge is final, this Legislature would be excluding the right of appeal which must be expressly given, and unless it is expressly given, it cannot be impliedly given by this Act, and so far as the Calcutta High Court is concerned, the Calcutta High Court shields itself by saying that though there is no right of appeal, it has the general right of power of supervision and, therefore, can hear an appeal. I hope the point is now quite clear. That being the case, the Calcutta High Court and the other Chartered High Courts will possess the appellate jurisdiction over all decisions under this Bill when it becomes law, but the same relief will be denied to the other Courts which are not chartered and established under the enactments of this country. That is my point.

My second point is this. I have been stating in this House for some years in connection with the legislative activity of the Government of India that it is against the fundamental rights of the British subjects that the Legislature should enact forfeiting a man's property without giving him a remedy in the civil Court. It would be an arbitrary executive act which can only be justified by the State when it is in a state of war.

Confiscation of private rights is only permissible when the State is at war and not in a state of peace. I pointed out the other day that section 65 of the Government of India Act supported my view, and I further added that, apart from section 65 of the Government of India Act, this Legislature cannot do what the British Parliament cannot, and this Act being passed by the British Parliament, it is not competent for this Legislature as wielding authority from the British Parliament to perform an act and confiscate property which it is incompetent for the British Parliament to confiscate without recourse to the civil law. That was the point I made. I know what my Honourable friend on the other side will say. I know all the cases from A to Z on the subject from the earliest days of Amir Khan. The last case was that of Bugga. There Sir John Simon appeared. It was a case tried by the Martial Law Tribunal. Sir John Simon argued that under section 65 of the Government of India Act, the Indian Legislature had no authority to constitute a Special Tribunal for the trial of certain political offences, but Sir John Simon did not argue the other point, namely that neither the Indian Legislature nor the British Parliament had the right of taking away the right which had been settled under the Act of Settlement to which I referred the other day. That he did not argue. Their Lordships of the Privy Council referred only to section 65, and, in so doing, they said that it was perfectly competent for the Indian Legislature to say by whom a person should be tried. There is the original Court A, and it is competent for the Indian Legislature to establish Court B for that matter. Their Lordships did not go into the further question that I have raised, and it has never been decided by any Court in India or England, that the Act of Settlement, to which I referred the other day, which embodies and incorporates the bundle of rights which constitute the fundamental rights of the English citizen and, therefore, constitute the fundamental rights of all British citizens wherever they are domiciled, cannot be derogated from by any Act of Parliament or by any Act of a subordinate Legislature, because the King and the people have entered into a contract and the contract was allegiance on one side, preservation of these rights on the other side. That being the position, it is not competent for any tribunal, much less for the Indian Legislature, to take away those rights which constitute the very basic rights of every British subject. That is the point which I wish to raise here and which, I submit, is not covered by any ruling. My friend will cite Bugga's case. I have read that case over and over again, and may I be permitted, in passing, to mention that, with the utmost deference to Their Lordships of the Privy Council, this House will recall how often we had the misfortune to overrule Their Lordships' decisions in this House? I remember at least half a dozen cases . . . . .

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member admits that this House has the power by legislation to override the decisions of all High Courts in India.

**Sir Hari Singh Gour:** This House has got the power of overriding the decisions of all High Courts including the decisions of the Privy Council, but this House has not got the right of overriding the *Habcas Corpus* Act, upon which is based the oath of allegiance and loyalty to the Crown. In fact, as I have said before, Their Lordships' decisions have been overruled by this House in several cases. I remember at least 6



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or 7 cases, but every second or third year we have the misfortune to do that. We can overrule all decisions, but we cannot overrule, and the British Parliament cannot overrule, the fundamental rights created by the *Habeas Corpus* Act and embodied in the Act of Settlement to which I made more detailed and pointed reference in the course of my argument the other day and to which my Honourable and learned friend has not yet vouchsafed any reply. I am only anticipating the reply that he would give, and let me tell him in reply that he is leading a forlorn hope if he thinks that he can shelter behind 1, Lahore or Amirkhan's case, because they have no application to the objection I am raising here. My point is this, that is not also covered by any Indian case, or an English case.

The third point I raised the other day was that Government propose by clause 13, sub-clause 17F, page 7, of the Bill, to protect all officers acting *bonâ fide* for anything in good faith done or intended to be done under the said clauses. The language is:

"for anything in good faith done or intended to be done under the said sections. . ."

The point I make is this. There is no law here, and no law in England or anywhere else that can tell a man, "You can go and pillage and plunder anybody you like, but so long as you act *bonâ fide*, however illegal your act may be, you are protected in advance of your illegality". I explained the other day at some length how a clause in favour of indemnity in advance was *ultra vires*, and it has long been settled in England that such a clause cannot be legitimately inserted in an Act of Parliament. If my Honourable friend on the other side consults any book on constitutional law, he will find ample authorities for that proposition. And we stand here upon a very higher pedestal than mere authorities of decided cases. This House, as the custodian of the rights and liberties of the people, must be most unwilling to give indemnity in advance to any servant without reference to his acts, whether they are legal or illegal. Protection, therefore, that has been given for his illegal acts under this clause is, I submit, too wide and cannot be conferred upon him under any constitutional law or practice. These are my points of order.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Before the Honourable Member resumes his seat, the Chair should like him to state definitely in the form of issues, the points on which he desires the ruling of the Chair.

**Sir Hari Singh Gour:** The points of order are these:

1. Whether this Legislature has authority to make a judicial order, passed by the District Judge, final?
2. Whether it is competent to the Indian Legislature to enact a law enabling the executive to confiscate property without compensation and preclude the party aggrieved from challenging its legality and propriety in a Court of law?
3. Whether it is competent to the Indian Legislature to enact a law indemnifying in advance the executive officers and servants without reference to the legality of their acts?

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The Chair understands that the Honourable Member's points of order are three, and they could be put in a very few words. The first point is, whether this Legislature has any authority to enact that the decisions of the District Judge and the Chief Judge of Small Cause Court are final. The second is, whether forfeiture of property with or without compensation, without providing a remedy to appeal to the Courts is within the competence of this Legislature; and the third is, whether the indemnity clause can be enacted by this Legislature before any cause for it has arisen. Is that so?

**Sir Hari Singh Gour:** Yes.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): In the first place the Chair should like to remark that it would have been better if the Honourable Member had raised each of his points of order when the relevant clauses were before this Legislature. It is perfectly true that our Rules and Standing Orders give wide authority to raise a point of order at any stage and at any time but, in the opinion of the Chair, it would have been more appropriate if each point of order had been raised when the relative clause was under consideration.

The Honourable Member contends that under section 107 of the Government of India Act, this Legislature has no power to make the decisions of subordinate Courts final. His contention is . . .

**Sir Hari Singh Gour:** As against the power conferred under the Charter Acts?

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The Chair is trying to place before the House in clear perspective the issues involved before asking whether any Honourable Member wishes to speak on them. Section 107 of the Government of India Act on which the Honourable Member relies uses the word "superintendence" only. The Chair knows of Acts passed by Local Legislatures enacting that the decision of the Chief Judge of the Small Cause Court shall be final. Section 107 of the Government of India Act merely confers the power of "superintendence", and it appears to the Chair that by the enactment of the proposed clause, no bar is placed against the exercise of that power. If that view is correct, the point of order on the first issue would not stand. Most part of the Honourable Member's observations in support of the points of order were arguments on merit. Whether forfeiture of property should be allowed by this Legislature within the powers conferred upon it without an appeal or a reference to Courts, appears clearly to be an argument on the merits of the case. I have not heard the Honourable Member cite any authority in support of his contention that this House has not the legislative power to pass the clause in its present form. The same thing applies to the third point. The Chair has not been told on what authority the Honourable Member contends that the powers of this Legislature are restricted in the matter of providing an indemnity clause in a Bill in anticipation of claims which may arise hereafter. On these issues the Chair would be glad to hear any Honourable Member who may desire to address the House.

**The Honourable Sir Brojendra Mitter:** I have heard more extraordinary propositions of law this afternoon than I have during the whole course of my practice at the Bar. The first proposition which my learned friend, Sir Hari Singh Gour, lays down is that if there be no appeal there is no revision; and in support of that extraordinary proposition he cited a passage from Sir John Woodroffe's book on the Civil Procedure Code. The passage is this:

"An erroneous decision by a court having jurisdiction can only properly be corrected by appeal and if the right of appeal does not exist the same results which an appeal would give cannot be arrived at indirectly."

Sir Hari Singh's suggestion was that the results of an appeal must be the same as the results of a revision. They are not the same and that is all the passage means. The proposition laid down by my learned friend was if there be no appeal there could be no revision. That proposition I contest. Revision lies only when there is no appeal. They cannot exist concurrently. In support of this I shall only draw the attention of the House to section 115 of the Civil Procedure Code, which is the Revision section. It says this:

"The High Court may call for the record of any case which has been decided by any Court subordinate to such High Court and in which no appeal lies thereto and if such subordinate Court appears to have exercised jurisdiction. . .";

then the various grounds are given. Therefore the right of revision exists when there is no appeal. There cannot be a concurrent right of appeal and revision. The proposition stated by my learned friend was that if there be no appeal, there could be no revision. Section 115 lays down that revision can take place only in cases where there is no appeal. I think that disposes of that wonderful argument. I come to the next point. My friend says "final" means conclusive. Who ever said it did not? Who ever said that when we said that "such decision shall be final" there was an appeal? I made it perfectly clear yesterday in answer to Mr. Lalchand Navalrai that appeals were intended to be barred by the use of the word "final". My learned friend's argument is this "Oh, this Legislature has no power to bar an appeal". I shall only remind him of a section in the Presidency Small Cause Courts Act and there is a similar section in the Provincial Small Cause Courts Act. I have not got the Provincial Act with me at the moment. The Presidency Small Cause Courts Act is an Act passed by the Indian Legislature. Section 37 says:

"Save as otherwise provided by this Chapter or by any other enactment for the time being in force every decree or order of the Small Cause Court in a suit shall be final and conclusive."

This was passed 50 years ago. The Indian Legislature laid down that every decree or order of the Small Cause Court should be final and conclusive. Sir, if the Legislature could make a decree or order final and conclusive in 1882, what has happened during these 50 years to take away that right of the Legislature? Why cannot we say now that in certain cases there shall be no appeal, as this Legislature said in 1882? Before I go away from the passage cited by my learned friend from Woodroffe's book, I find, after the passage which he read out that the same results cannot be obtained by revision as by appeal, there is a footnote and it says:

"Clause 15 of the Letters Patent does not give a right of appeal where none exists at all."

That is really what was decided in the case quoted—that where the Letters Patent did not give an appeal under section 15, in that particular case no other appeal lay. Sir, this Legislature, under section 65 of the Government of India Act, has got plenary powers of legislation, subject of course to the limitations which are mentioned in the Government of India Act itself. The Legislature can say that in certain cases there shall be an appeal and in other cases there shall be no appeal. This would not be *ultra vires* of this Legislature. Sir, I have drawn the attention of the House to section 37 of the Presidency Small Cause Courts Act. I now draw the attention of the House to the Criminal Procedure Code, which was also an Act passed by this Legislature. Section 413 says this:

“Notwithstanding anything hereinbefore contained, there shall be no appeal by a convicted person in cases in which a Court of Session passes a sentence of imprisonment not exceeding one month only or in which a Court of Session or a District Magistrate or other Magistrate of the first class passes a sentence of fine not exceeding Rs. 50 only.”

Here is another instance where this Legislature says that in certain cases there shall be no appeal. There are numerous instances (*Mr. Muhammad Yamin Khan*: “Further on, there are provisions about summary trials”), but I do not want to tire the patience of the House by citing more instances. Sir, the next point of my learned friend is still more extraordinary—about the right of forfeiture without compensation. He not only says that this House has no right to pass any such legislation but even the British Parliament has no right to pass any such legislation.

**Sir Hari Singh Gour**: “Without compensation, without indemnity.”

**The Honourable Sir Brojendra Mitter**: My learned friend's point, as I understood him, is this,—that neither the British Parliament nor the Indian Legislature can pass any law by which property can be forfeited without payment of compensation. Sir, in my younger days when I began the study of constitutional law one of the first things which I learnt was what is known as the Sovereignty of Parliament. There are two fundamental doctrines upon which the British constitution is based—one is the Sovereignty of Parliament, and the other is the Rule of Law. Sovereignty of Parliament means this that Parliament can enact anything. Our powers are not co-extensive with the powers of the British Parliament, because our Legislature is not a sovereign legislature; it is derivative. The British Parliament can enact anything; we can enact only within the limitations of the Government of India Act. We cannot go beyond that.

**Raja Bahadur G. Krishnamachariar** (Tanjore *cum* Trichinopoly: Non-Muhammadian Rural): Except that the British Parliament cannot make a woman man, or a man woman, as pointed out by Dicey.

**The Honourable Sir Brojendra Mitter**: As regards the right of forfeiture without payment of compensation—I have had no time to look up the authorities, but it is an elementary point. I can refer the House to the case reported in 41 Cal., known as the *Comrade* or Mahomed Ali case. What happened there? Mahomed Ali had a copy of a book which had been proscribed. Government forfeited that, and Mahomed Ali went up

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to the High Court to have that order of forfeiture set aside. Sir, that case was heard and decided by one of the greatest Judges who came out to this country, Sir Lawrence Jenkins, and if I remember aright, the case was argued by Mr. Eardley Norton on behalf of Mahomed Ali and the Advocate General represented the Crown. It cannot be said that proper legal knowledge was not brought to bear upon that case.

**Mr. S. O. Sen:** This point was not raised in that case.

**The Honourable Sir Brojendra Mitter:** Please hold your soul in patience, Mr. Sen. Even Mr. Eardley Norton had not the temerity to advance the argument that the order of forfeiture was bad because the Legislature had no power to legislate for forfeiture without compensation. The argument on the face of it is so ridiculous that it was not thought of nor advanced. When I mention the counsel who appeared in the case, it is only for the sake of suggesting that if there was anything in a point like that, it could not have escaped the notice either of Mr. Eardley Norton or the Advocate General or Sir Lawrence Jenkins. Then as regards "indemnity in advance"—there again my learned friend said, "you cannot give indemnity in advance". Sir, where does my Honourable and learned friend get his law? Where has anybody, any lawyer, either a constitutional lawyer or a municipal lawyer or any other lawyer said that you cannot legislate for indemnity in advance? Sir, we start with the proposition that Parliament or our Legislature has plenary powers. Unless it is shown that in a certain direction these powers are restricted, they can exercise those powers. My learned friend has not shown any restriction on the powers of the Indian Legislature in this matter. That being so, the powers exist and can be exercised. Sir, my learned friend goes further and says that even the British Parliament cannot do it. Sir, that is about the limit. (Hear, hear.)

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): (To Mr. Anklesaria) I trust the Honourable Member will be brief.

**An Honourable Member:** I rise to a point of order.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Order, order. The Chair is not bound to hear any Honourable Member on a point of order.

**Mr. N. N. Anklesaria** (Bombay Northern Division: Non-Muhammadan Rural): Sir, my Honourable and esteemed friend, the Leader of the Nationalist Party, has really put his foot in it as he always does when he tries to expound questions about constitutional law. Sir, the Bombay ruling which was cited can be explained by the comments in a case decided only last year in which I myself was counsel. The High Court of Bombay said that it will not exercise its revisionary powers, which are absolutely discretionary powers, in cases where the party aggrieved has got another remedy in law. In that case the remedy open to the party was a remedy by suit. I shall explain in a few words what that case was. That was a case which went up to the High Court in a

revisionary petition from the decision of a sub-judge on clause 15 of the Third Schedule to the Civil Procedure Code. It was a matter of arbitration in which the First Class Sub-Judge under clause 15 refused to file the award. The party aggrieved then took that case to the High Court and the Bombay High Court said that he had no right of appeal under Schedule III of the Civil Procedure Code. Counsel for the aggrieved party said that if that petition did not lie by way of an appeal, it may be treated as a revision petition. The reply was that the High Court will not exercise its revisionary powers, because the party aggrieved has got a right of suit as regards the matter of that award and the party, by invoking the revisionary powers of the High Court, was depriving the exchequer of the amount of court and stamp fees, which he would be obliged to pay if he filed a regular suit.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The Chair would like to point out to the Honourable Member that the issue raised by the Honourable the Leader of the Nationalist Party is that the enactment of these three clauses in the Bill is outside the powers of this Legislature. That is the point on which the Chair would allow the Honourable Member to address the House briefly, if he wishes to do so.

**Mr. N. N. Anklesaria:** The Honourable the Law Member has already expounded the law on the matter. I only wished to bring to the notice of the House the decision of the Bombay High Court.

**Sir Hari Singh Gour:** Sir, in Forsyth's cases and opinions on Constitutional law, this very point has been the subject of long discussion and he sums up the decided cases thus:

"The right conclusion upon the whole matter seems to be this: Martial law may be justifiably imposed as a terrible necessity, and an act of self-defence; under it there is a suspension of civil rights and the ordinary forms of trial are in abeyance. Under it a man in actual armed resistance may be put to death on the spot by anyone acting under the orders of competent authority; or, if arrested, may be tried in any manner which such authority shall direct. But if there be an abuse of the power so given, and acts are done under it, not *bona fide* to suppress rebellion and in self-defence, but to gratify malice or in the caprice of tyranny, then for such acts the party doing them is responsible."

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Order, 4 P.M. order. We have taken considerable time in dealing with this point of order. I want the Honourable Member to give the Chair specific replies to the point the Chair has made. The Chair does not want any further discussion on the merits as to whether these clauses should be accepted by the Legislature or should not be accepted by it. I will give another opportunity to the Honourable Member to point out on what authority he relies that these clauses in the present Bill are outside and beyond the authority of this Legislature. I want nothing more than that. If the Honourable Member has anything more to say, I will hear him.

**Sir Hari Singh Gour:** On the first point, I have pointed out, with as much clearness as I am capable of, that the High Court of Rangoon has laid down, in a special Statute, where you have the word 'final', which means 'conclusive', and no further proceedings can be taken under it. This is a special Statute; that is the point. My Honourable friend has

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recited from the Civil Procedure Code. What the Government should have said was: Nothing herein contained shall take away the power of the High Court under section 435 of the Criminal Procedure Code to revise an order passed by the District Judge. If my friend wants to make it clear, it will make that point clear. The second point and the third point deal with a constitutional question. I relied on section 35 of the Government of India Act and pointed out on the last occasion—I do not wish to read it again—to the full chapter dealing with the fundamental rights which cannot be derogated from, and they are under the Magna Charta, Chapter IV, in the English Constitutional History by Taswell-Langmead (Eighth edition). In my speech on the last occasion all these points were set out in greater detail and my Honourable and learned friend never gave any reply to them. He cannot now complain . . . .

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member should restrict himself to the point to which his attention has been specifically drawn.

**Sir Hari Singh Gour**: I have nothing more to say.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The Chair does not wish to go into the various interesting and learned legal points made by the Honourable Member. The Chair is concerned only with one point, namely, whether the clauses objected to are within the powers of this Legislature or are outside those powers. The powers which this Legislature possesses are given in section 65 of the Government of India Act, and the Chair would like to invite the attention of Honourable Members to the wide words used in that section, giving authority to this Legislature to enact laws. Section 65 runs as follows:

"The Indian Legislature has power to make laws:

(a) for all persons, for all courts and for all places and things within British India; and

(b) for all subjects of His Majesty and servants of the Crown within other parts of India."

Can words be more comprehensive than these? These wide powers are restricted in certain ways and in certain cases, and that was the reason why the Chair more than once asked the Honourable the Leader of the Nationalist Party to point out how these wide powers were restricted by other provisions of the Act which would make these three clauses *ultra vires* of this Legislature. Honourable Member has not done so. The Chair in giving its ruling must say that, so far as the Chair is concerned, it will never be a party to restrict the rights of this House in any way without clear and definite authority in support of such a contention. It appears to the Chair that Honourable Members of this Legislature ought to be very sensitive in the matter of their own rights and privileges and the Chair will stoutly uphold them, unless clear and definite authority is shown to the contrary. The Chair holds that this Assembly is fully competent to enact the three clauses to which objection has been taken and rules that the points of order raised cannot stand. (Applause.)

**Sir Hari Singh Gour:** Sir, neither I nor those for whom I speak can reconcile ourselves with the drastic provisions of this Bill which are about to be enacted into law, in spite of the emphatic and indeed vehement protest of Members on the popular Benches. We had hoped that, when the Bill emerged from the Select Committee, the Honourable occupants of the Treasury Benches would at least extend to us that co-operation which we have extended to them time and again and give us the same facility which we might enjoy, if these Benches had not been so deserted, as I lament they are.

[At this stage Mr. President (The Honourable Sir Ibrahim Rahimtoola) vacated the Chair, which was taken by Mr. Deputy President (Mr. R. K. Shanmukham Chetty).]

Honourable Members on the other side must remember that this Bill was announced to be taken at a special Session of the Legislative Assembly, of which a very short notice was given to the Honourable Members at the Simla Session. And I do not complain that many Members of this House, who had already made engagements during this month and the last, found it impossible to cancel them and subordinate their personal interests to their public duty. That may be some excuse, but I venture to submit that it is hardly any justification for the absence of so many representatives of the public, on an occasion when a measure of such momentous importance, affecting the lives and liberties of the people, is about to become law. As I said on the last occasion, Ordinances were passed, but they were passed by the executive without the consent of the representatives of the people. But today technically and to all appearance this measure is becoming law with the consent of the popular Chamber. And it is on that ground that I deeply lament the absence of so many Honourable Members, who might have been here to represent the views of their various constituents.

Having said that, Sir, I now turn to the provisions of the Bill. I have made it abundantly clear, on previous occasions, that while we are anxious to arm Government with exceptional powers, we are equally anxious to safeguard those legitimate rights of the people against which abuses have been reported or abuses can be foreseen. And it is on those points that I had appealed to the Honourable the Home Member to modify the Draconian terms of many sections of this Bill. But that was not to be. Sir, I know that this Bill will be now transferred to another sphere, and so far as we are concerned, our voices shall have been raised in vain. But one thing I can ask the Honourable Members still to consider. There is time yet to consider. I gave two amendments, one of which was withdrawn, which my friends behind me now find was a good amendment; the other amendment went by default while I was hunting authorities for the points of order which I have since raised. I ask my esteemed friend, the Home Member, to pilot those two amendments in the other House, under the power of attorney which I hereby confer upon him.

There is a third point on which I should like the Honourable the Home Member to mitigate the provisions of this Bill. We on this side of the House feel very strongly on two points in this Bill. One is the prohibition and the complete interdiction of peaceful picketing by bodies and associations entirely unconnected with the civil disobedience movement. You have a very large number of temperance leagues, a large number of missionary societies and other social reform societies, which have



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been in existence in this country long before the Congress and the civil disobedience movement were heard of. The plenary provisions against picketing, provided in this Bill, endanger the activity, the perfectly legitimate and, let me add, laudable activity of those large bodies of men engaged upon social reform.

The other point, which I should like the Honourable Member to seriously consider, is the very drastic provisions that have been added to those already existing in the Press Emergency law. I am not connected with the Press and, as I said the other day, I should be the last person in the world to prevent the passing of a law that would exercise a salutary check upon the illegal activities of that body. But, at the same time, the Press is the cry of the public, and I, as a representative of the public, would be deprived of any communication from them through the medium of their accredited agency. To that extent the Members of this Legislature would be the poorer. The Honourable the Home Member could not be unaware of the provisions of the orders that have recently been passed demanding exorbitant securities from two organs of the nationalist Press; and I, therefore, ask the Honourable the Home Member that if he is still obdurate, he might at least relent after he has had his pound of flesh and he retires into the room of that composure and calmness, in which he works, undisturbed by the *verbosum forum* here or elsewhere. May he then exercise a temperate and judicial judgment and reflect in his mind, as to whether the provisions of this Bill are not likely to be abused, not by high officers, but by irresponsible subordinate officers, against whose excesses complaints have frequently been made and are being daily multiplied. I hope, Sir, my appeal to the Honourable the Home Member will not go in vain.

**Mr. Muhammad Yamin Khan** (Agra Division: Muhammadan Rural): Sir, before this Bill was introduced in the Assembly, we had only the Ordinances, and before the Ordinances came into force we knew what the condition of the country was. We knew that the state of affairs was getting from bad to worse every day, which forced the hands of His Excellency the Viceroy and Governor General in promulgating the Ordinance. The result which had been achieved was a marvellous one and we found that on account of the Ordinances a great deal of peace had been restored in the country, and that was the justification for the introduction of this Bill before the House. I am glad that the House realised their responsibility and, by a huge majority, referred this Bill to the Select Committee, a majority which had never been, as far as I remember, obtained in this House on any serious measure introduced by the Government. Sixty-four members voted for the consideration of the Bill, thus adopting the principle of the Bill, while they were opposed by only 32. Now, that voice of the Members had been justified again by their rising to the occasion, and they have realised their responsibility as representatives of the constituencies, that their first duty is to help the Government in restoring law and order, and thus bringing peace and prosperity without which no progress is ever possible in any country. Again I am very glad that this House has passed all the clauses practically in the shape that had been amended by the Select Committee. (*An Honourable Member*: "Why practically?") Because there has been a little change in the case of one section, about the military. Without any serious change

if any Bill passes through the Assembly on all occasions by a huge majority, that shows that proper care had been taken to amend the law in the shape which might find response from all sections of the House. This Bill will go as an Act after sometime in the country, and I am sure that this Bill will have the same effect in keeping peace in the country as the Ordinances had brought it into the shape as we stand today in the country; and that is the greatest justification. I am not concerned with this question that it is not liked by certain classes of people. Undoubtedly there will be some people who will not like the provisions of any law which is enacted, but the support which the whole country will give to this Bill is known by the majority which we found on each clause, and, afterwards when the people will come under the new reformed councils, they will know and will realise what a boon had been given to them by this Assembly (Ironical Cheers from the Opposition Benches) in keeping the country into proper order. I think this Bill will be appreciated by the whole country and, though there may be some difference of opinion between me and some of my Honourable friends who may deny it, but if they will go and search the feelings of most of their dumb constituents, they will find that they really appreciate this law and they will wholeheartedly support it. Sir, I support the motion.

**Raja Bahadur G. Krishnamachariar:** Sir, we have come to the last stage of the Bill. Not all the eloquence of my friends of the Nationalist Party, who are not in their seats now and whose seats are all empty, nor even the eloquence of my friend, the Leader of the Nationalist Party, has moved the hard heart of the Honourable the Home Member to withdraw even an inch from the position which he took up. I must compliment him on the very firm fight he put up on behalf of the Government, and, yet if I get up to say a few words, it is because I do not want that the country should know that I have recorded a silent vote, and that I should even at this last stage tell the Government and the country exactly what men of my view of thinking consider about this Bill. Throughout the stages of this Bill, the Honourable the Leader of the Nationalist Party has been hammering away on certain questions of constitutional law which, unfortunately for him, nobody cared to take into cognisance,—nor even he, as I shall show presently. I am not a constitutional lawyer nor have I the capacity to write three volumes of annotation on a 140 section Act. I was a plain practising lawyer who has been for some time at the Bar, and, with the common sense, which I hope, I am endowed with, I shall tell him presently that all his questions of constitutional law are entirely misplaced and out of order in this Assembly at least. (*An Honourable Member:* “Why?”) I shall answer immediately why. The most important question, that he raised and which I know he has carefully avoided, as the Honourable the President pointed out when the question itself was being discussed, is about the forfeiture. Unless I am seriously mistaken, unless I have forgotten the whole procedure—I believe I was here when the debate on section 17F was going on in this House—that is the clause which deals with forfeiture—my friend the Honourable the Leader of the Opposition was, I believe, mum; he did not raise any objection to it; he never tabled an amendment asking that it should be omitted, nor did he put forward a single argument, with which we may now deal elaborately, in order to show how this provision is not *ultra vires* of the Legislature. Let me not be misunderstood. I do not support that provision. I say that provision is a very wrong one, and it ought

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not to have been allowed to find a place in an enactment deliberately passed by this Legislature which is supposed to be a popular legislature. But at the same time I very strongly object, even after the objection came from the leader of a distinguished party, that that objection should be formulated regularly, should be debated upon, that humble individuals like myself should be given an opportunity to show that . . . . :

**Sir Hari Singh Gour:** May I intervene for one second and point out that, if I had raised it by way of amendment before, it would have to be submitted to the decision of the whole House, whereas by raising it in the manner I did, I left it to the President as the custodian of the rights of Members to decide that point?

**Raja Bahadur G. Krishnamachariar:** I quite understand the position. The Honourable Member has made his position very very unfortunate by giving that explanation. If you read the report of the Select Committee, there is a long statement made . . . .

**Mr. Deputy President (Mr. R. K. Shanmukham Chetty):** I must remind the Honourable gentleman that, so far as the point of order was concerned, a ruling has been given by the Chair, and I would request the Honourable Member to confine himself to the discussion with regard to the merits of the Bill.

**Raja Bahadur G. Krishnamachariar:** I do not know that I was going to say anything against the decision on the point of order. What I beg to submit and, if I may be wrong I stand corrected, not being conversant with the procedure of the House so much as other gentlemen perhaps, you will excuse my lapse—if I try to explain myself,—because I do not want even to be thought of by anybody that I am in any way lacking in respect to the Chair, to question its order, which has been given after a great deal of labour and waste of time of a whole hour. What I wanted to submit was, that the procedure adopted by my friend in getting a decision upon a question, which he called a point of order, which is not a point of order so far as I can understand it, I say that the explanation which he has submitted to this House has made his position very unfortunate, for this reason . . . .

**Mr. Arthur Moore (Bengal: European):** On a point of order, Sir. Is it in order to discuss a point of order which is not a point of order?

**Raja Bahadur G. Krishnamachariar:** It is not a point of order, and if I may be permitted to explain a little . . . .

**Mr. C. S. Ranga Iyer:** On a point of order. Is it proper for any Honourable gentleman in this House to comment upon the ruling which has been given by the Chair?

**Mr. Deputy President (Mr. R. K. Shanmukham Chetty):** I would not permit any Honourable Member to start a discussion on a point of order on which a definite ruling has been given by the Chair, and I must, therefore, request Raja Bahadur Krishnamachariar once again to confine himself to the remarks on the third reading of the Bill.

**Raja Bahadur G. Krishnamachariar:** On a point of personal explanation, Sir. I am not trying by any means to trespass upon the decision of the Chair on the point of order . . . . .

**Mr. Deputy President (Mr. R. K. Shanmukham Chetty):** The Honourable Member, so far as I am able to understand him, is again trying to discuss the point of order raised by the Leader of the Opposition.

**Raja Bahadur G. Krishnamachariar:** You will kindly allow me to express myself in my own humble way. I am not so familiar with the English language, and, so I hope, you will permit me to express myself in my own way for just a few minutes. I have got as much, if not more, respect for the ruling of the Chair than anybody else, but what I want to submit by way of personal explanation is this. In the report of the Select Committee, it was suggested that this question was going to be debated before the House, and I said the Honourable Member occupied an unfortunate position by inviting the ruling of the Chair. What that ruling is, I am not concerned with, but my point is this. I object to the Honourable Member's procedure that he did not bring it as an amendment. He said he took a more favourable opportunity by getting a ruling from the Chair. That I say has placed him in an unfortunate position, because he did not give an opportunity for debate, and that is what I wanted to point out. Anyway, it is useless to pursue the matter further. But the most important point, as I said, was about this forfeiture, and, as far as I understood the ruling of the Chair, it was not concerned with the correctness or the merits of the question. It was only concerned with the power of this Legislature, and on that, Sir, I do not want to say anything. But, so far as the rights of this Legislature are concerned to enact section 17F, the position is perfectly clear, and, while I again say that I do not agree with the provisions of that section, I think the House is entitled to know what the position in law is and how it is entitled to enact a provision like this. Sir, there was a famous case in the Madras High Court, in which property belonging to Dr. Annie Besant was confiscated, and the case was taken before the Privy Council. In that case an identical objection was raised that an order of forfeiture under a law passed by the British Indian Legislature was *ultra vires* without the safeguard which my friend wants that this section should have. The case was reported in I. L. R. 43, Madras, at page 160. It says:

"It was contended in the High Court and before this Board that it was beyond the competence of the Indian Legislature to enact section 22 and possibly to enact the Press Act. Now, section 22 . . ."

**Mr. F. E. James (Madras: European):** May I rise to a point of order, Sir. As far as I understand it, the argument, which my friend is developing, is the argument which was developed by the Leader of the Opposition and disposed of by the President in his ruling. I, therefore, would like to put it to you that the whole of that argument at this stage is not in order.

**Mr. Deputy President (Mr. R. K. Shanmukham Chetty):** Do I understand the Honourable Member to say that so far as the forfeiture clause is concerned, this Legislature has not got the right of enacting that law?

**Raja Bahadur G. Krishnamachariar:** No; but it had the right to do so.

**Mr. Deputy President (Mr. R. K. Shanmukham Chetty):** On that point a ruling has been given, and a discussion on that point at this stage is wholly irrelevant.

**Raja Bahadur G. Krishnamachariar:** I bow to your ruling, Sir. It saves 15 minutes of my arguments.

Then with regard to the question of constitutional law which has troubled some of my friends, I at least cannot understand where the point of order ends and where the question of merits begins, and, therefore, I do not want to trouble the House over that matter. But, before I deal with one or two points of the merits of the Bill, I would like the Honourable the Home Member to consider one point, and that somewhat seriously. The Leader of the Opposition has invited the attention of this House to the fact that we were summoned here at very short notice, and I hope it will be admitted that some of us have got something else to do and not merely to knock about from place to place, merely for the pleasure of attending the meetings of the Legislature at a time when the cold weather is fast increasing and when we can really do nothing useful. We come here all the way and we offer co-operation. We do not belong to the civil disobedience movement, some of us at least have been sufferers at the hands of those who are propagating the civil disobedience movement. Our constituencies have elected us, and so we come here to offer co-operation. It is a matter which I cannot understand, probably I am very dense,—why outside the discussions which have been going on in this Legislature, most of us have been credited with a right to advise people upon difficult and knotty questions of everyday occurrences, and they have been safely acting up to our advice, and the world has been going on exactly on the lines on which we have been giving advice to our constituents, but, directly we come into this House, directly we say that a certain measure of the Government is not correct, we all of us become quite useless, not one of our suggestions is acceded to. And what is it therefore we are asked to co-operate except to register what the Government thinks is right? Is there no alternative view? Is it the idea that we should merely make speeches here and the Government should, by their majority, carry all measures, whether good or bad without properly considering our views? We know you have got the votes secure. There is an old story in the Tamil country. There was a zemindar who was not particularly conversant with music. Some of his friends brought some eminent musicians who began to show their musical skill. This zemindar got completely bored very soon. He sat for a few minutes and told the servants: "Look here, listen to the whole thing, and when the show is over, close the doors and go away". Is that the reason for which we come here? Is that the co-operation that you want from us, unless it be the co-operation of agreeing entirely with the Government, which results in, what my friend Mr. Yamin Khan said the other day, the peace of the grave and not the peace of a living community, which is quite satisfied with what has been done, and that is what is being attempted to be done. I want Government to take particular note of that fact, why it is that, directly we enter this House, we are supposed to have been deprived of all intelligence, of all sense of being able to discriminate between good and bad, and every time we get defeated. I have not been able to understand why.

This Bill is intended to safeguard the community from certain aspects of the civil disobedience movement. You run your eyes through the

sections of the Bill, even cursorily,—the operative clauses of it,—and there is not a field of the nation's activity which does not come within the purview of this legislation. What are those other phases of the civil disobedience movement that you have omitted from this Bill? Nothing. Snakes? No snakes in Iceland—that is the only answer I can give to this, because every phase of activity that a honest man is entitled to pursue has been roped in here, and it has been made so dangerous with Explanations explaining nothing, that it is impossible for any honest man, I say deliberately, I say advisedly, to do anything with a sword hanging over his head to fall at any time.

[At this stage Mr. President (The Honourable Sir Ibrahim Rahimtoola) resumed the Chair.]

I submit, therefore, that this piece of legislation is very objectionable and ought not to secure the assent of the House, though it be a cry in the wilderness. I do not think it is any use my going over the ground that has been covered here from beginning to end, but there is one point which I have not been able to understand, although I believe I tried to follow the debate, and that is with reference to what they call peaceful picketing. I do not know whether there can be peaceful picketing or whether there cannot be peaceful picketing. There are differences of opinion between Honourable gentlemen. We are all honourable people on both sides, and therefore it is impossible for me to decide between them as to who is correct and who is not correct. But surely when my Honourable friend, Mr. Anklesaria, who is not a particularly rabid Congress agitator, has thrown in his weight in favour of this peaceful picketing . . . . .

**Mr. N. N. Anklesaria:** On a point of personal explanation, Sir. I have never said anything about peaceful picketing. I am against picketing of all sorts. That is what I say in my Minute of Dissent. I said peaceful persuasion.

**Raja Bahadur G. Krishnamachariar:** Beg your pardon. As I have said, I am not sufficiently conversant with the English language to understand the nicety of difference between persuasion and picketing. But if you refer to the Oxford Dictionary, persuasion and picketing come so very near that the line of demarcation,—I do not say in all matters,—in matters to which this particular Act relates, is somewhat difficult for a man to draw, and it is difficult for a man to differentiate between persuasion and picketing. I apologise to my Honourable friend for having stated picketing instead of persuasion, but I am concerned with the substance of it. He says:

“Peaceful persuasion or inducement which does not or is not calculated to involve any obstruction, violence, intimidation, annoyance, or alarm to any person does not come within the purview of this section.”

It is stated in this printed book that this clause was finally given shape to by my Honourable friend, Mr. Anklesaria. What was the objection to that? Government would not agree even to that. That is my complaint. The reason why I brought in Mr. Anklesaria's name was that it was drafted by a person who has not committed himself to civil disobedience and who has absolutely no sympathy with that. Government are going to have this power, and I do not know whether I should

[Raja Bahadur G. Krishnamachariar.]

congratulate them or not. But, if I am alive this time next year and continue to be a Member of this House, I hope we shall have some record of the manner in which this Act,—it would have been an Act by that time,—has been administered, and how the country, which is now claimed to have lost its peace, has got back its peace. I do not think I need take up the time of the House any more. I oppose this motion.

**Some Honourable Members:** Let the question be now put.

**Mr. S. C. Sen:** I have no intention of troubling the House with a long speech, nor do I want now to go into the merits of this measure. We have discussed the matter very thoroughly all these days. My point is this. This is a measure, as has been said by the Honourable the Home Member, intended to cope with the civil disobedience movement, but unfortunately, so far as I can see, the provisions of the Bill have not been restricted to the civil disobedience movement only. I find from the newspapers that in Allahabad they have made their Bill restricted only to the no-rent campaign. I do not know whether we can even now make the Bill restricted to civil disobedience only. I congratulate the Honourable the Home Member on the fact that he has got all he wanted, and he has not allowed even a “t” to be cut, or a comma to be added, or a dot to be put on. That is a matter on which he can well congratulate himself. There are one or two clauses on which I should like to say a few words. I am not concerned much with the first few sections, as we find that in Bengal those things cannot happen. We have no military there, nor have we any police officers whom we want to dissuade from their service. The country is so poor and the people are so starved that they want to get into any service they can enter, whether in the regular service of the police or as spies and informers. My grievance is as regards forfeiture. I pointed out in the Select Committee that there ought not to be a forfeiture of property or monies by executive order without reference to the civil Court. That would be an uncivilised method of grabbing somebody else's property. The Honourable the Home Member was kind enough to accede to my arguments and to put in a clause for referring the matter to the District Judge or the Chief Judge of the Small Cause Court. If he had left it there, I would have been satisfied, but he made the decision of the District Judge or the Chief Judge of the Small Cause Court final. We know that the Small Cause Court cannot have ordinary jurisdiction over Rs. 2,000. But in this case the claim may be for over Rs. 2,000, it may exceed Rs. 5,000, or Rs. 10,000 in Presidency-towns. In that case to provide for no appeal is I think wrong. It may be argued that this is a Court of special jurisdiction which has been created, and, as no appeal has been allowed, the High Court has no jurisdiction even in revision. I do not know whether that argument will succeed or not, but I may point it out to the Honourable the Home Member, so that he may consider even at this last stage whether he should not do something to remedy that defect.

As regards the Press, I have told the House that the proposals are very repressive and drastic, and will gag the activities of a very important section of the public. The result of the gagging of the Press has been shown by my friend, Mr. Mitra, this morning as regards the excesses practised by the punitive police and other police officers in Bengal. If

the Press had been free, these matters could have been disclosed in the Press and could have been brought to the notice of the Honourable the Home Member, but this cannot be done. In these circumstances, it is questionable whether this gagging of the Press is for the good of the country or the good of the Government which has to keep alive its good name, as good and civilised administration. In this connection I may refer the Home Member to a passage from the speech of Lord Minto when he was Governor General of this country and when the Newspaper Incitement to Offences Bill was being considered by the Legislative Council. He says that he was given advice by the public that the Government must be stern and must govern the country as has been done in this instance. We know that all the repressive measures, which have been put on the Statute-book, were more or less at the instance of other persons and because they insisted upon governing the country in the strict sense of the word. Lord Minto says:

"The public has that we are weak, that we have failed to maintain order, that the glory of England has departed, that strong measures have been neglected. I am no believer in hysterical demands in the hour of danger. I maintain that the strength of the British raj has been built up upon justice of its administration. Heaven knows that it was not weak but it has been a just one and I hope it will continue to be so."

I appeal to the Home Member to consider this passage of Lord Minto and consider whether the provisions of this Bill are just. The Home Member has got all he wanted in the nature of the provisions of the Bill. I appeal to him to issue strict instructions to Local Governments and subordinates as regards the execution of the measures contained in this Act, and, as regards the policy which the Government of India would ordinarily take for the purpose of pacifying public opinion, I ask him to see that the drastic powers are not exercised except in extreme cases. I do not know whether the instances given by Mr. Mitra are correct or not. It seems to me that they are correct, and, if that be so, I appeal to the Honourable the Home Member to see that there is no repetition of such gross repression and, in the interests of justice, in the interests of the good name of British administration in this country, and in the interests of the good name of the Britishers, I ask him to make a public inquiry,—I do not care if it is by officials—a thorough inquiry into this matter.

**Several Honourable Members:** I move that the question be now put.

**Mr. Amar Nath Dutt:** I cannot support the passing of a Bill like this. This Bill contains provisions restricting the rights of citizenship in every sphere of human activity, both with regard to property and freedom of person. If I look at the history of this Bill, which we are now asked to pass, we find that there was a time when the Government thought that the condition of things, for which the Bill like the present one is necessary, will exist for all time to come, and that provisions like these in the Penal Code itself were necessary and that the Bill will have a lease of life till eternity. Fortunately they found the unwisdom of asking the House to pass a legislation like this, and in the Select Committee they restricted the life of the Bill to a duration of three years. In addition to the Indian Penal Code, to have a legislation like this shows that there are certain extraordinary conditions for which we are asked to legalise the illegal acts of the public servants. The Bill as it has emerged



[Mr. Amar Nath Dutt.]

from the Select Committee is no improvement upon what the Government wanted at one time. The duration of its life may be shorter, but it takes away the valued right which a citizen possesses. Clause 2 says:

"Whoever willfully dissuades or attempts to dissuade the public or any person from entering the Military, Naval, Air or Police Service of His Majesty shall be punished."

I think it is the inalienable right of every human being to offer advice to a friend or relation and one's own children. It is for me to decide whether my son will be a member of the bureaucracy or whether he will join the Bar. It is not for them to compel my son to accept service under the present political conditions in the country; and if I am to advise my son and say, "no, you must pass your law examination and join the Bar", I am liable to be hauled up, because thereby I deprive the Government of a very valued servant of theirs. I cannot dream of any civilised society where guardians, far less parents, can be compelled to act in the way in which this section wants us to act, and I think it will be more honoured in the breach than in the observance, and that our people will be more willing to undergo imprisonment rather than see their way to becoming the subservient tools of the bureaucracy. Then again, as has been suggested by several friends, considering the economic distress in the country, there is hardly any need to prevent people from joining the services, and the Government will never be in want of men for their services, unless the attendant danger be such as will dissuade them from doing so. Apart from the physical danger that it entails, there is also the moral danger of entering especially one of the services named in the Bill, I mean the police service; wherein, as soon as you get into the service, you have to do acts, willingly or unwillingly which your conscience won't approve of. Sir, the other day we had the sorry spectacle of an Englishman who came to India to serve India as they say and for our welfare, and he gave us a long list of the wrongs to which the members of the police service are subjected. Sir, he forgot the rights of the people for whom the police exists. It is common experience with us, if not with the officers of Government themselves, that the police, instead of being our servants act as our masters. I remember that only a few days ago a police officer prevented me from entering this very Chamber, where I am by the suffrages of the people and where, under the Government of India Act, I am entitled to be. I do not know who gave that order and from whom that order emanated, and when I complained to the superior officer, he said, "that man did not know and he had no such instructions". Look here, Sir, if in the very place, where you are to enact laws for the protection of these men, these men behave in the way in which they did only a few days ago, you can easily imagine how they behave outside with the people in the country; and I ask you to answer this question: "Can you honestly say that you have no experience of police oppression and zoolum?" If not,

5 P.M. I invite your attention to the lurid picture that was drawn by my friend, Mr. S. C. Mitra, a few minutes before, with respect to Midnapore. Sir, there are still heaps of papers with him showing how the people are being treated by the police, and I shall not tire the patience of this House by reading all those which will cause one's blood boil within himself. Sir, who is the manufacturer of these terrorists? Who is responsible for the advent of these terrorists in this land? It is legislation like this, and it is the attitude of Honourable Members on the Treasury Benches. Here in the name of law and order

they are manufacturing terrorists. Sir, remember the statement made by Miss Beena Das who was accused of firing at the Governor of Bengal,—and she gave out what impelled her to take the step, which she did in the very hall of her own *alma mater*. Sir, if you want to suppress terrorism, if you want to suppress all these revolutionary movements, it is up to you to be acting as you ought to, as members of a civilized administration. Sir, repression and mere repression will breed more revolutionaries. That is the history of all human institutions. You cannot expect me to love you. (*A Voice from the European Benches*: “No, no.”) They cannot expect me to love them if they will behave with me in the way in which they are behaving. Sir, in a land where even the life of the smallest creature that breathes in this world is considered to be sacred, the birth-place of Buddhism and Jainism, there to find young men, with all the fervour and enthusiasm for the love of their country, taking a revolver and shooting, surely there must be some reason behind that. Will you not try to understand the situation? I ask you, Sir, for your own interests, as my friend, Mr. Gunjal, has advised you, not to listen to those flatterers, those toadies and title-hunters and job-seekers. You cannot live with them. Take our advice if you want to be here,—and I believe that your destiny and our destiny are bound up together for some time yet, and that is my desire and, I believe, the desire of everybody, that we may work hand in hand and peacefully in this land for the common benefit of us all. But if you do not listen to us, if you enact legislation like this, I submit, Sir, that there will be no end of these terrorist crimes. What you have heard today from Mr. S. C. Mitra, would exasperate the mildest amongst us and incite us to put an end to the perpetration of the outrages at Midnapur.

Sir, is there any honest man, any decent man, who would not lay down his own life in order to protect the honour of our women? Certainly one would not be worthy of being called a man if he did not do so. And I know you also will do the same thing if such things are perpetrated before your eyes. All these things are not brought to your notice, or it may be that you do not care to look into these complaints. Here photographs are submitted with those detailed accounts of outrages upon women, and these statements are signed and bear the thumb impression of the outraged women themselves. There may be men, of course, like Lord Lytton who would say that, in this country, women come forward and charge the police falsely. Sir, he has misread the history of this ancient land, and a fitting reply was given by Mrs. Sarojini Naidu at the overflowing meeting held near the Calcutta Town Hall, in which she said that anyone who would accuse Indian womanhood like that was wholly wrong.

Then, again, we have got clause 3 about tampering with public servants . . . . .

**Mr. R. S. Sarma** (Nominated Non-Official): On a point of order, Sir. Is it open to the Honourable Member to traverse clause by clause and discuss the Bill clause by clause, or has he got to confine himself to the general observations on the third reading?

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Only general observations are usually made on the third reading. We have had enough of detailed discussion. It is not a point of order, but it is a point for consideration by the speaker himself as to what he should do.

**Mr. Amar Nath Dutt:** I shall try to be as brief as possible.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Order, order: The Chair proposes to sit till the Honourable Member concludes.

**Mr. Amar Nath Dutt:** Sir, as it is the desire of my friends that I should conclude and, as I do not wish to trouble the Chair by a long sitting, I will not take up the Bill clause by clause. All that I wish to say is that a Bill like this should not have been brought before this Legislature. If there are extraordinary circumstances and conditions prevailing in the country, then Government have already got sufficient powers to frame Ordinances, and they ought to have recourse to that. Sir, there is a limit to human patience. With these few remarks, I oppose the Bill.

**Several Honourable Members:** The question be now put.

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#### STATEMENT OF BUSINESS.

**The Honourable Sir Brojendra Mitter** (Leader of the House): Sir, the course of business for next week will be that on Monday we go on with the Ottawa Resolution and the amendments to it. If this Resolution is passed, we shall go on with the Criminal Law Amendment Bill. After that, the Ottawa Bill will be introduced.

The Assembly then adjourned till Eleven of the Clock on Monday, the 5th December, 1932.

# LEGISLATIVE ASSEMBLY.

*Monday, 5th December, 1932.*

The Assembly met in the Assembly Chamber of the Council House at Eleven of the Clock, Mr. President (The Honourable Sir Ibrahim Rahimtoola) in the Chair.

## QUESTIONS AND ANSWERS.

### ILLNESS OF CERTAIN POLITICAL PRISONERS IN JAIL.

**1524. \*Pandit Satyendra Nath Sen:** (a) Has the attention of Government been drawn to the fact that a large number of the important political prisoners (*e.g.*, Messrs. Subhas Bose and J. M. Sen-Gupta) have been suffering very seriously from various ailments in various jails and other places of detention?

(b) Are Government aware that the late Mr. C. R. Das and the late Pandit Motilal Nehru also fell victims to their sufferings in jail?

(c) If not, have Government considered the desirability of making sifting enquiries by impartial experts as to the food and meals supplied to such prisoners?

**Pandit Satyendra Nath Sen:** Before question 1524 is answered may I point out that in clause (c) of the question the words "If not" are entirely out of place? These words had reference to a previous clause which has been disallowed. Therefore, the words "If not" should be changed into "If so", or they should be deleted.

**The Honourable Mr. H. G. Haig:** (a) and (c). I would refer the Honourable Member to the replies given by me in this House to Mr. S. C. Mitra's questions Nos. 201 and 378 on the 13th and 19th September, 1932, regarding the health of Mr. Subhas Chandra Bose and Mr. J. M. Sen-Gupta, respectively. Government receive frequent reports on the health of these two State Prisoners and have taken every care to provide them with suitable medical attention. Mr. Subhas Chandra Bose was transferred in the beginning of October to Bhowali Sanatorium for the treatment of the disease from which he was believed to be suffering. Government have recently acceded to his request to be further examined by a medical board which will consist of two doctors of his own choice and two doctors selected by Government. Mr. Sen-Gupta was brought to Calcutta towards the end of October and admitted into the Medical College Hospital. He is under careful treatment and I understand there is at present no cause for alarm. I shall shortly receive a more detailed report from the Government of Bengal and will then be able to communicate further information to the House.

(b) No, Sir.

**Pandit Satyendra Nath Sen:** Is it a fact that Mr. Subhas Chandra Bose is suffering from slow fever along with other diseases?

**The Honourable Mr. H. G. Haig:** I am afraid I cannot give a detailed description of Mr. Subhas Chandra Bose's symptoms.

**Pandit Satyendra Nath Sen:** Is it a fact that the late Mr. C. R. Das and Pandit Motilal Nehru suffered from the same disease, and that they contracted that disease in jail?

**The Honourable Mr. H. G. Haig:** No, Sir. The suggestion is that Mr. Subhas Chandra Bose is suffering from tuberculosis. I have never heard it said that either Pandit Motilal Nehru or Mr. C. R. Das suffered from that.

#### FORFEITURE OF DEPOSIT MONEY OF THE *FREE PRESS JOURNAL*.

1525. **\*Pandit Satyendra Nath Sen:** (a) Will Government lay on the table a copy of the article reproduced from the *Young India* by the *Free Press Journal* for which its deposit money has been forfeited?

(b) What was the exact offence on which action was taken by Government?

**The Honourable Mr. H. G. Haig:** (a) A copy of the article has been placed in the Library of the House.

(b) The article was held to contain matter falling under clauses (d) and (h) of section 4(1) of the Indian Press (Emergency Powers) Act, 1931, as amended by section 77 of the Special Powers Ordinance, X of 1932.

**Pandit Satyendra Nath Sen:** Was it a mere reproduction of the article or was there any comment on it by the editor?

**The Honourable Mr. H. G. Haig:** It was a reproduction of the article.

**Mr. Gaya Prasad Singh:** Are Government prepared to point out the objectionable passages in the article so that other newspapers may be more careful in future?

**The Honourable Mr. H. G. Haig:** I understand that in the order of the Bombay Government certain passages were specified. If the proprietors of the journal are not satisfied, as the Honourable Member is aware they can take the matter to the High Court.

#### SEPARATING THE HINDUS FROM OTHER RELIGIONISTS IN RESPECT OF THEIR MEALS IN JAIL.

1526. **\*Pandit Satyendra Nath Sen:** (a) Are Government aware that Hindus in general are very keen about their meal being not touched by other religionists?

(b) If so, are Government prepared to consider the desirability of separating the Hindus from the other religionists in respect of their meals in jail?

(c) Is any food forbidden for Muhammadan prisoners given in jail diet?

(d) If so, what is that?

(e) If not, why is the onion given to high caste Hindus? Are Government aware that it is forbidden for them?

**The Honourable Mr. H. G. Haig:** (a) and (b). The Jail Manuals of all Provinces provide that due regard shall be paid to the religious scruples and caste prejudices of prisoners and Government see no necessity for any further action in the matter.

(c) and (d). The articles of diet and dietary scales for prisoners are fixed by Local Governments and as I have just said due regard is paid to their religious susceptibilities.

(e) I would refer the Honourable Member to the reply which I gave on the 7th November to his starred question No. 899.

**Pandit Satyendra Nath Sen:** In reply to that question the Honourable Member referred to the anti-scorbutic properties of onion. May I know if onion is the only substance in the world which contains that property or is there any other thing also?

**The Honourable Mr. H. G. Haig:** I am afraid I must ask the Honourable Member to refer to medical opinion on that point.

**Pandit Satyendra Nath Sen:** Is the Honourable Member aware that beef and ham also contain some good qualities and are those also going to be introduced in the jails?

**The Honourable Mr. H. G. Haig:** No, Sir. They have nothing to do with anti-scorbutic properties.

**Pandit Satyendra Nath Sen:** They have got other good qualities.

#### TRANSFERS OF STATION SERVICE TELEGRAPHISTS.

1527. **\*Pandit Satyendra Nath Sen:** (a) Is it a fact that the service conditions of a station service telegraphist make him immune from transfer outside the stations to which he is attached except in time of war or any other national emergency?

(b) Is it a fact that the Post and Telegraph Sub-Committee of the Retrenchment Advisory Committee, 1931, recommended transfers of telegraphists to combined offices as an "emergent measure" designed to absorb the surplus?

(c) Is it a fact that only station service telegraphists are picked up for such transfers?

(d) Is it a fact that under paragraph 64 (4) of Posts and Telegraphs Manual, Volume IV, transfers of signalling staff can be made to meet the general requirements of discipline and efficiency?

(e) Is it a fact that under paragraph 69 of the Posts and Telegraphs Manual, Volume IV, telegraphists under orders of transfer are on no account to be struck off duty until their advances have been arranged for and paid to them?

(f) If the answer to part (e) be in the affirmative, will Government be pleased to state whether the general service pay and status will be given to such station service telegraphists? If not, why not?

(g) If the answer to part (f) be in the negative, what are the causes for such distinctions?

**Mr. T. Ryan:** (a) Yes.

(b) Yes.

(c) No.

(d) Yes.

(e) Yes.

(f) So far as Government are aware no station service telegraphists have been deputed to work in combined post and telegraph offices in stations other than those to which such telegraphists were attached, and this part of the question does not therefore arise.

(g) Does not arise in view of the reply to part (f) above.

#### APPOINTMENT OF APPRENTICES ON THE EAST INDIAN RAILWAY.

1528. **\*Pandit Satyendra Nath Sen:** (a) With reference to the answer given in reply to starred questions Nos. 1306 and 1308 (b) of 16th November, 1931, is it a fact that Mr. Platts was not discharged after the completion of his training but was in service in the Paint Shop? Is it also a fact that he failed in the Technical School?

(b) If the answer to part (a) above be in the affirmative, will Government please state the reasons for not selecting any successful *ex*-apprentices from the waiting list and what were the grounds for selecting an unsuccessful man for the post?

(c) Do Government propose to appoint *ex*-apprentices in all future cases from the waiting list according to seniority and the result of the Technical School as it is done in Jamalpur Workshop (East Indian Railway), which is under one and the same head? If not, why not?

**Mr. P. R. Rau:** With your permission, Sir, I propose to reply to questions Nos. 1528 to 1534. I have called for information and will lay a reply on the table, in due course.

#### APPOINTMENT OF APPRENTICES ON THE EAST INDIAN RAILWAY.

†1529. **\*Pandit Satyendra Nath Sen:** (a) Is it a fact that one Indian apprentice who completed his training on the 9th February, 1930, from the East Indian Railway Workshop, Lillooah, worked in the Drawing Office for a longer period than all other apprentices of 1930 and 1931? Is it also a fact that he stood first in the Technical School among Jamalpur, Lucknow and Lillooah apprentices?

(b) If the answer to part (a) above be in the affirmative, with reference to the answer to starred questions Nos. 1306 and 1308 (b) of 16th November, 1931, will Government please state the reasons why Mr. Gibbons was selected for the post of Carriage and Wagon Draughtsman in preference to the Indian *ex*-apprentice of 1930? Do Government propose to take steps to replace him (Mr. Gibbons) by the *ex*-apprentice of 1930? If not, why not?

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†For answer to this question, see answer to question No. 1528.

**APPOINTMENT OF LILLOOAH APPRENTICES AS ELECTRICIANS AND TRAIN EXAMINERS.**

†1530. **\*Pandit Satyendra Nath Sen:** (a) With reference to the answer to Mr. Bhuput Sing's starred question No. 631 of 4th March, 1932, will Government please state whether it is a fact that the said Anglo-Indian had no training in Carriage Repairing, Train Lighting or Wagon Repairing Shop? Is it also a fact that he failed in the Technical School?

(b) If the answer to part (a) above be in the affirmative, will Government please state the reasons why he was selected for the appointment?

(c) Do Government propose to take in other *ex*-apprentices to such posts, who have similar training according to seniority and result of the Technical School on the same grade and issue orders to Divisional Superintendents to this effect? If not, why not?

**VACANCIES IN THE GRADE OF TRAIN EXAMINERS, ELECTRICIANS AND ELECTRIC INSPECTORS ON THE EAST INDIAN RAILWAY FILLED BY EX-APPRENTICES OF THE LILLOOAH WORKSHOP.**

†1531. **\*Pandit Satyendra Nath Sen:** Will Government please state how many vacancies in the grade of Train Examiners, Electricians and Electric Inspectors occurred in the East Indian Railway, since March, and how many of them have been filled up by the *ex*-apprentices of Lillooah Workshop?

**APPOINTMENT OF EX-APPRENTICES OF THE LILLOOAH WORKSHOP.**

†1532. **\*Pandit Satyendra Nath Sen:** (a) Will Government please state whether it is a fact that 81·8 per cent. European and Anglo-Indian and 18·2 per cent. Indian *ex*-apprentices of Lillooah Workshop (who completed their training from Lillooah Workshop), East Indian Railway, have been appointed in the Workshop establishment at Lillooah, since 1929?

(b) If the answer to part (a) above be in the affirmative, do Government propose to consider the case of Indian *ex*-apprentices and arrange to give them their share?

(c) If the answer to part (a) be in the negative, will Government please lay on the table the names of those who were appointed after the completion of their apprenticeship training from Lillooah Workshop since 1929 with the following:

- (i) date of completion of apprenticeship,
- (ii) date of appointment,
- (iii) percentage of marks obtained in final examination in Technical School, and
- (iv) starting salaries?

**APPOINTMENT OF MECHANICAL APPRENTICES OF EAST INDIAN RAILWAY WORKSHOP AT LILLOOAH IN OTHER DEPARTMENTS.**

†1533. **\*Pandit Satyendra Nath Sen:** (a) Will Government please state whether a mechanical apprentice of East Indian Railway Workshop at Lillooah is allowed to work as apprentice in other departments?

†For answer to this question, see answer to question No. 1528



(b) Is it a fact that one European or Anglo-Indian who was appointed as apprentice in Mechanical Department, Lillooah, in 1928, is working in Electrical Department since his appointment?

**HOURS OF EMPLOYMENT OF ELECTRICIANS, TRAIN EXAMINERS, ETC., UNDER THE DIVISIONAL SUPERINTENDENT, HOWRAH, ON THE EAST INDIAN RAILWAY.**

†1534. **\*Pandit Satyendra Nath Sen:** (a) Will Government please state what are the hours of employment of Electricians, Train Examiners, etc., under the Divisional Superintendent, Howrah, on the East Indian Railway?

(b) Is it a fact that in the Howrah Division (East Indian Railway), Electricians, Train Examiners, etc., perform 56 hours of duty in a week (9 hours 20 minutes daily), whereas in other Divisions such as Dinapore in the same Railway, Electricians, Train Examiners, etc., perform 48 hours duty in a week (8 hours daily)? If so, will Government please state the reasons for the same?

**INDIAN MEDICAL DEPARTMENT ASSISTANT SURGEONS ON THE NORTH WESTERN RAILWAY.**

1535. **\*Mr. S. G. Jog** (on behalf of Mr. Goswami M. R. Puri): (a) Will Government please state the total number of the Indian Medical Department Assistant Surgeons employed on the North Western Railway?

(b) What is the quota of the Indian Medical Department fixed by the Railway Board for the North Western Railway?

(c) If the number of men from the Indian Medical Department is in excess of the quota fixed, what steps have been taken to reduce the excess?

**Mr. P. R. Rau:** Information is being collected and a reply will be laid on the table in due course.

**REPAIRING AND TARRING OF THE MAUDE ROAD IN NEW DELHI.**

1536. **\*Mr. S. G. Jog** (on behalf of Mr. Goswami M. R. Puri): (a) Are Government aware that Maude Road which is one of the important thoroughfares running through the Indian clerks' quarters in New Delhi has not been repaired for a long time?

(b) Is it a fact that almost all the important roads in New Delhi have been macadamized and tarred? If so, will Government be pleased to state the reasons why the said road is not tarred or repaired? Are Government aware of a strong feeling amongst Indian clerks that the said road is uncared for, as the road is used only by Indians? If not, do they propose to inquire into the matter? If not, why not?

(c) Are Government prepared to ask the New Delhi Municipality to take early steps for the repairing and tarring of the road?

**Mr. G. S. Bajpal:** (a), (b) and (c). With your permission, Sir, I would answer parts (a), (b) and (c) together. It is true that Maude Road has not been repaired, nor its surface tarred, but this is due entirely to shortage of funds resulting from the prevailing financial stringency. A number of roads in the area where the Indian Clerks' quarters are located

†For answer to this question, see answer to question No. 1528.

in New Delhi, such as Park Lane, Punchkuin Road, and others have been repaired and their surfaces treated, and Honourable Member may rest assured that Maude Road would be dealt with in the same way when the financial situation allows.

**POSTS CREATED IN THE SECURITY PRINTING, INDIA, CURRENCY NOTE PRESS AND THE CENTRAL STAMP STORES IN NASIK.**

1537. **\*Mr. S. G. Jog** (on behalf of Mr. Goswami M. R. Puri): Will Government be pleased to state the number of posts created in the Security Printing, India, Currency Note Press and the Central Stamp Stores in Nasik since their establishment carrying salaries between Rs. 150 to Rs. 1,500 a month and how many are held by Indians and how many by Europeans and Anglo-Indians?

**The Honourable Sir George Schuster:** 133, of which 97 are held by Indians and 20 by Europeans and Anglo-Indians. 16 are vacant.

**APPOINTMENT OF MR. FREDERICK JONES AS AN APPRENTICE IN PRINTING AT NASIK.**

1538. **\*Mr. S. G. Jog** (on behalf of Mr. Goswami M. R. Puri): (a) Is it a fact that one Mr. Frederick Jones has been appointed as an apprentice in printing at Nasik? If so, is he a paid apprentice or an unpaid one? Is it a fact that he is being given officiating appointments every now and then?

(b) Is it a fact that the Workshop Supervisor and the Store keeper are two brothers and the apprentice, Mr. Jones, is their nephew? Will Government be pleased to state whether the appointing authorities were aware of the relationship of all these employees? If so, will Government be pleased to state who appointed all the relations in that Security Printing?

**The Honourable Sir George Schuster:** (a) Yes. Mr. Jones is a paid apprentice. He has not held officiating appointments.

(b) The answer to the first two parts of this question is in the affirmative. The appointments were made by the Master, Security Printing.

**RAILWAY QUARTERS ON THE EASTERN BENGAL RAILWAY.**

1539. **\*Mr. S. G. Jog** (on behalf of Mr. Goswami M. R. Puri): (a) Is it a fact that the Railway quarters on the Eastern Bengal Railway are still being classed as European and Indian?

(b) Will Government be pleased to state whether the staff member of the Railway Board circulated a statement stating that racial discrimination in matters of quarters and other respects has been abolished on the Indian State Railways? If so, will they be pleased to state why racial discrimination in the matter of quarters is still being maintained as stated in part (a) above?

(c) Is it a fact that Indian guards are drawing higher salaries than European guards, but that the Indian guards are being given "W" type quarters at Sealdah? If so, why?

(d) Is it a fact that European guards with less pay than Indian guards are being given special class quarters? If so, will Government state why no Indian guards with higher salaries than European staff are being provided with these special class quarters?

(e) Is it a fact that the Railway Board circulated a statement stating that quarters will be allotted according to an officer's grade and not on the basis of race, such as European or Indian?

**Mr. P. R. Rau:** With your permission, Sir, I propose to reply to questions Nos. 1539, 1540 and 1541 together. I have called for information and will place a reply on the table in due course.

#### QUARTERS FOR EUROPEAN STAFF AT SEALDAH.

†1540. **\*Mr. S. G. Jog** (on behalf of Mr. Goswami M. R. Puri): (a) Is it a fact that the European Controller and other European staff at Sealdah, Eastern Bengal Railway, drawing less than Rs. 200 are being provided with "Z" type quarters though on the salary basis they are entitled to "W" type quarters only? If so, why?

(b) Will Government be pleased to state what is the total rent they are at present getting from all the "Z" type quarters at Sealdah and what rent they would have got if all the "Z" type quarters were made available to officers with higher salaries irrespective of whether they are Indians or Europeans?

(c) Will Government be pleased to state the maximum rent of only the building which can be recovered from the tenants of "W" type quarters on the Eastern Bengal Railway? Will Government be pleased to state the maximum rent of only the building which can be recovered from the "Z" type quarters on the Eastern Bengal Railway?

#### RACIAL DISCRIMINATION IN THE CLASSIFICATION OF QUARTERS AT SEALDAH AND OTHER PLACES.

†1541. **\*Mr. S. G. Jog** (on behalf of Mr. Goswami M. R. Puri): (a) Is it a fact that some quarters have been built for Indian guards with less accommodation and of inferior type than the quarters being occupied by their European colleagues with lesser pay? If so, why?

(b) Do Government propose to do away with this racial discrimination in the classification of quarters at Sealdah and other places on all the State Railways? If not, why not?

#### RESOLUTIONS PASSED AT THE ALLAHABAD UNITY CONFERENCE.

1542. **\*Raj Bahadur Sukhraj Roy:** (a) Will Government be pleased to state if their attention has been drawn to the tentative resolutions passed unanimously at the Allahabad Unity Conference recently?

(b) Have these resolutions affected or will they affect in any way the Communal Award given by the Premier? If so, how and under what circumstances?

(c) What is the meaning of "the communities agreeing among themselves"?

(d) Will the generally accepted "greatest good for the greatest number" principle of political economy apply in such a case or not?

(e) What is the general policy of Government on the question?

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†For answer to this question, see answer to question No. 1539.

**The Honourable Mr. H. G. Haig:** (a) Government have seen the resolutions published in the Press.

(b) to (e). I would invite the Honourable Member's attention to paragraph 4 of the Communal Decision which states the position of His Majesty's Government in this matter and to which I have nothing to add.

#### DISABILITY PENSIONS TO DISCHARGED MILITARY MEN.

**1543. \*Mr. S. G. Jog:** (a) Is it a fact that the terms of enrolment of the Indian ranks promised them as provided in clause II, paragraph 1053, Army Regulations (India), Volume I (1915 edition), that injury pensions will be given to those discharged as unfit for further service owing to:

(i) illness contracted on field or foreign service, and

(ii) illness solely attributable to field or foreign service?

(b) Is it not a fact that the personnels referred to in the statement laid on the table on the 15th September, 1932, in reply to question No. 141 (c) and (d) were passed medically fit for field service immediately before proceeding thereon and afterwards contracted disability both on field and foreign service?

(c) Will Government please state whether they have some records to hold that the said personnel did not contract the disability while on field and foreign service?

(d) If Government have no record to show that the illness was not contracted otherwise than on field and foreign service, how do Government conclude that the illness was not contracted on field or foreign service?

(e) Is it a fact that in the new rules for disability pensions, a note was introduced in September, 1925, to the effect that when a disability is contracted in peace conditions, strict proof that the disability is attributable to military service is required?

(f) Have Government got any rule as regards proof for the attributability of disabilities contracted on field or foreign service?

(g) Will Government please state the distinction between "strict proof" and "ordinary proof" as applied to field or ordinary military service?

**Mr. S. G. Jog:** Sir, I find that my question No. 1543 has not been properly reproduced, and that there is a material mistake to which I should like to draw attention. Between clauses (i) and (ii) of paragraph (a) of the question the word has been printed as "and", whereas in my manuscript I find that the word is "or". I hope the Honourable Member will be prepared, when replying to the question, to read "or" for "and".

**Mr. G. R. F. Tottenham:** (a) With the correction that the Honourable Member has just pointed out, the Honourable Member has quoted the 1915 Regulations correctly, but these regulations were subsequently altered.

(b) The answer to the first part of the question is in the affirmative. The answer to the second part is that the claims of these persons have been most carefully re-examined and in no instance has it been established that the individual was suffering from a pensionable disability contracted on field or foreign service.

- (c) No.
- (d) Because there is no evidence to show that the disability was contracted on field service.
- (e) Yes.
- (f) The Honourable Member's attention is invited to paragraph 414 of the Regulations for the Medical Services of the Army in India, a copy of which is in the Library.
- (g) The term "ordinary proof" is not used in the regulations; so there is no distinction between it and "strict proof". The term "strict proof" is probably tautologous but means that special care must be exercised in accepting the evidence tendered.

**Mr. S. G. Jog:** Is it not a fact that these are two distinct things—illness contracted on field or foreign service, that is one thing, and illness solely attributable to field or foreign service? A man may come under one category, while another man come under another category. Are not these two quite distinct things?

**Mr. G. R. F. Tottenham:** Yes, Sir; they are two different things.

**Mr. S. G. Jog:** That means when a man contracts illness while on field service, the question about the attributability does not arise?

**Mr. G. R. F. Tottenham:** Under the old Regulations it was certainly possible for a soldier who contracted an illness on field or foreign service to be eligible for pension, whether the disability from which he was suffering was due to military service or not; but the regulations, as I have said, were subsequently altered, because it was realised that this provision was unfair to the taxpayer.

**Sardar Sant Singh:** May I know when this regulation was altered?

**Mr. G. R. F. Tottenham:** I think it was altered in 1922 or 1923.

**Sardar Sant Singh:** May I know if the persons who were recruited under the earlier rules are subject to the altered rules?

**Mr. G. R. F. Tottenham:** I should like to have notice of that question.

**Sardar Sant Singh:** It is a very simple question, whether persons who were recruited under the conditions given in the regulations of 1915 were or were not entitled to the pensions under the rules of 1915 but were ineligible under the rules of 1922?

**Mr. G. R. F. Tottenham:** I should like to have notice to look into that point. Persons who are enrolled are generally subject to the regulations as they are altered from time to time. I do not know whether any special provision was made under which these people were to be subject only to the 1915 regulations. It is quite possible that their terms of service made it clear that they would be subject to any regulations for the time being in force, but I will look into that point.

**Sardar Sant Singh:** Does the Honourable Member mean that by the change of regulations they can change the rules under which these people would be entitled to some pension, and can these people be deprived of that pension by introducing the new rules?

**Mr. G. R. F. Tottenham:** That is the point I will look into. Actually there is no question about the people mentioned in this question; they were brought in under the 1915 regulations and their case was dealt with under the 1915 regulations. There was no question of their being dealt with under any subsequent regulations.

**Sardar Sant Singh:** May I know . .

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Order, order; next question.

#### DISABILITY PENSIONS TO DISCHARGED MILITARY MEN.

1544. **\*Mr. S. G. Jog:** (a) Is it a fact that under Financial Regulations for the Army in India, Part I, paragraph 84, the date of commencement of pension is the one in which the pensioner ceased to be borne on the effective establishment, i.e., the date following that of discharge, but in practice disability pensions are being given with effect from the date of sanction allowing no arrears at all?

(b) Is it not a fact that Government, in their publication entitled "India's Contribution to the Great War" admitted that no member of community has a greater claim on the State than an incapacitated soldier? If so, are Government aware that arrears of 12 years and over are being disallowed in cases where disabilities have been certified as attributable to field and foreign service? If so, why?

(c) Will Government please state whether it is a fact that arrears for disability pensions in cases which, in the first instance, were admitted to disability pensions provisionally for three years and were to be reboarded on the expiry of the provisional grant on the initiative of Government to see if the disability warranted continuance of their disability pensions have been disallowed? If so, why?

(d) Is it a fact that under paragraph 4 of the Financial Regulations for the Army in India, Part I, paragraph 84, of the aforesaid Financial Regulations admitting pension from the date of discharge, is assumed to have received the sanction of the Secretary of State for India in Council and Audit Officers are authorised to admit pensions under the letter of the said paragraph?

(e) Will Government please state why the provisions of paragraph 84 of the Financial Regulations is being contravened, i.e., why pensions are being given from the date of sanction and why not from the date of discharge?

(f) Is it not a fact that sometimes the very correspondence between different offices takes from two to three years for which petitioners are not responsible and disability pensions have been disallowed even for this aforesaid period?

**Mr. G. R. F. Tottenham:** (a) and (e). The rule is as stated by the Honourable Member, but it applies only to pension claims preferred within the period prescribed in paragraph 44 of the Financial Regulations, Part I. With regard to the question of arrears, I would ask the Honourable Member to refer to the reply given on the 12th February, 1932, to part (b) of starred question No. 289.

(b) A soldier who has been disabled as a result of military service certainly possesses a very strong claim on the State; but this view is not inconsistent with the view that where there has been extraordinary delay in submitting a claim for a disability pension, the amount of the arrears to be granted should in the interests of the general taxpayer be determined according to the merits of the case.

(c) If a person who has been granted a pension for a fixed period allows some years to elapse before taking action to have it renewed, it is reasonable that the arrears finally allowed to him should be limited. In some cases the disability may have diminished or disappeared during the interval.

(d) Yes,

(f) I should doubt whether there have been any cases in which as much as two or three years have been spent in correspondence between different offices alone, but if the Honourable Member will give me any specific instances I will certainly look into them.

**Mr. S. G. Jog:** Is there any specific rule under the Army Instructions that after a certain period the right to pension lapses?

**Mr. G. R. F. Tottenham:** No, Sir; there is nothing in my answer which would warrant that conclusion.

**Mr. S. G. Jog:** Is there any rule that an application for pension should be made within a particular time?

**Mr. G. R. F. Tottenham:** Certainly, we have laid down some time limit for claims for disability pensions in respect of service during the war. That is merely following the practice at Home under which a definite time limit has been laid down; but, as I have explained, if in any particular instance a sufficiently good case can be put forward, Government are always prepared to look into it on its merits.

**Sardar Sant Singh:** May I know whether the charge of these pensions is borne by the British Exchequer or the Indian Exchequer?

**Mr. G. R. F. Tottenham:** I do not think, Sir, that that question arises out of the answers I have given.

#### DISABILITY PENSIONS TO DISCHARGED MILITARY MEN.

1545. **\*Mr. S. G. Jog:** (a) With reference to the statement laid on the table on the 15th September, 1932, in answer to question No. 145 of 9th March, 1932, will Government please state how withholding of appeals by Officers Commanding is reconciled with the answer given by Government to question No. 285 of 29th March, 1932, saying that statutory rights have been conferred for disability and family pensions by the War Pensions Act of 1919 and 1920 in the United Kingdom and the same are conferred by rule in India?

(b) Is it not a fact that in England a person has got a statutory right to appeal against the decision of the Ministry of Pensions on the grounds that:

- (i) disability is not attributable to or aggravated by service in the Great War, or
- (ii) disability is due to the serious negligence or misconduct of the claimant?

(c) Is it also a fact that petitions and appeals bearing applicant's signatures and convenient addresses of the claimants have been viewed as drafted and typed by claims agencies and the claimants have been advised not to have recourse to such agencies?

(d) With reference to the general Regulations given on page 108 of the "Notes On War Pensions" (issued by the Ministry of Pensions) according to which an appellant may be assisted at the hearing by counsels or solicitors or by a member of local War Pensions Committee or friend, will Government please state why such a procedure is being denied to Indian ranks?

(e) With reference to the statement laid on the table on the 15th September, 1932, in reply to unstarred question No. 302 (c) and (d) of 30th March, 1932, will Government please state if they are satisfied that it was possible for the pension investigating officers to approach every disabled sepoy and illiterate widow? Will Government please state if they were in a position to conduct their further correspondence on their behalf?

(f) If the reply to part (e) above be in the negative, why are the claims of disabled sepoys, widows of deceased soldiers and minor children being declared as time-barred?

(g) With reference to the statement laid on the table on the 15th September, 1932, will Government please state if the existence of soldiers board committees was fully advertised so as to be known by every disabled sepoy and widow? If the Indian ranks and widows could not avail themselves of this official facility, will Government please state what are their objections, if they avail themselves of the service of some non-official persons at their own expense?

**Mr. G. R. F. Tottenham:** (a) The answers quoted do not require reconciliation because they refer to two different things—one refers to the withholding of appeals and the other is the withholding of pensions.

(b) Yes.

(c) Yes; when the petitions have been so drafted and typed.

(d) Because the existing simple and direct means of preferring claims are considered sufficient.

(e) It is certainly just as easy for a disabled sepoy or illiterate widow to approach the official authorities direct as through a professional claims agency.

(f) Does not arise, but I may add that there is no time bar to the submission of claims for family pensions.

(g) The existence and functions of the Indian Soldiers' Board have been very widely advertised. Government have no objection to petitions written by petition writers on behalf of claimants, but, in the interests of the claimants themselves, they advise them not to make use of agencies, which charge a commission for their services, when they can get similar or better services for nothing through the official channels.

#### UNOFFICIAL PARALLEL POSTAL SERVICE IN THE BOMBAY PRESIDENCY.

**1546. \*Rao Bahadur M. C. Rajah:** (a) Has the attention of Government been drawn to an A. P. I. message under the caption "Rival Postal Service" published in the *Madras Mail*, dated the 22nd October, 1932?



(b) Is it a fact that enormous revenue is being taken away from the Government Post Office by a secret unofficial parallel service in various districts of the Bombay Presidency?

(c) Is it a fact that competition with Government is being carried on in certain parts of Guzerat where letters and parcels are conveyed in motor buses by private agencies at rates considerably cheaper than those charged by Government?

(d) Are Government aware that this sort of business is being carried on since the enhancement of the postal rates?

(e) Are Government aware that the fall in the postal revenue is due to the enhancement of postal rates?

(f) Will Government be pleased to lay on the table a statement showing the total number of post-cards, envelopes and stamps sold and the number of articles posted during the years 1926, 1928, 1929, 1930, 1931 and 1932?

(g) Are Government prepared to restore the old postal rates in view of the fall of revenue due to increased postal rates?

(h) With reference to the questions above, do Government propose to educate the public as to the illegality of sending letters and parcels through unofficial agency however cheap it may be to them?

**Mr. T. Ryan:** (a) Government have seen the message in question.

(b) and (c). There has been some competition in parts of the Bombay Presidency with the Government Post Office. Government have no reason to believe that the loss caused in this way justifies the use of the adjective "enormous".

(d) There is reason to believe that the practice referred to was in existence before the recent enhancement of postal rates.

(e) No. The *volume* of postal traffic has no doubt been affected, but the indications are that the postal *revenue* is at present larger than it would be had the postal charges not been enhanced.

(f) The precise information asked for is not available; but information regarding the sale proceeds of postcards, envelopes and stamps of all denominations sold to the public for all purposes during the years referred to is as follows:

Year.					Value (in thousands of rupees).
1926	..	..	..	..	7,21,80
1928	..	..	..	..	7,60,98
1929	..	..	..	..	7,62,92
1930	..	..	..	..	7,42,39
1931	..	..	..	..	7,08,65
1932 (first 9 months)	..	..	..	..	5,47,84

Information regarding the total number of articles *posted* is not available.

(g) As I have just explained the Honourable Member's assumption is incorrect. Government do not at present propose to restore the postal rates previously in force.

(h) Yes. Steps have already been taken in this direction.

**DELHI CONSPIRACY TRIAL.**

1547. \***Mr. Muhammad Muazzam Sahib Bahadur:** Will Government give the following information about the Delhi conspiracy trial:

- (a) total cost spent up till now;
- (b) cost on prosecution up till now;
- (c) cost paid for defence up till now;
- (d) the terms on which the different lawyers were engaged for conducting the prosecution case; and
- (e) under what head this expenditure is shown in 1932-33 and the amount budgeted and spent?

**The Honourable Mr. H. G. Haig:** (a) Rs. 2,87,589.

(b) Rs. 82,869.

(c) Rs. 34,536.

(d) The prosecution is in the hands of two counsel, each of whom receives Rs. 1,500 a month. In addition, the senior counsel draws Rs. 150 for each day of hearing of the case. These emoluments are subject to the 10 per cent. cut.

(e) Account III Administration of Justice—C—Civil and Sessions Court. The amount budgeted for the financial year 1932-33 is Rs. 2,44,040 of which Rs. 1,02,060 had been expended up to the 30th September, 1932.

**Dr. Ziauddin Ahmad:** In view of the assurances given during the last two years that this case would come to an end in the current financial year, may I ask whether the case will come to an end during this year or whether he will ask for more money in 1933-34?

**The Honourable Mr. H. G. Haig:** I am afraid the course of the case is not in the hands of Government, but in that of the tribunal.

**TENDERS FOR STALLAGE OF MEAT MARKET, BAKERY AND DAIRY SHOPS BY THE JULLUNDUR CANTONMENT BOARD.**

1548. \***Mr. K. P. Thampan** (on behalf of Mr. Jagan Nath Aggarwal):

(a) Will Government kindly inform the House if it is a fact that the Cantonment Board, Jullundur, called for tenders for stallage of meat market, bakery and dairy shops for the year 1932-33?

(b) Is it also a fact that such stalls are the property of the Cantonment Board and used to be let on monthly rent to the occupants before?

(c) Is it a fact that the Cantonment Board has now granted a monopoly to the occupants of the stalls for the next year and has refused licences to the vendors of the various articles mentioned above who had been carrying on this trade in the cantonment for several years past?

(d) Will Government kindly inform the House:

(i) of the cost to the Cantonment Board of constructing such stalls,

(ii) of the rent charged annually for the same during the past five years, and

(iii) of stallage fees that have been realized from or contracted to be paid by the stallage contractors for the year 1932-33?

(e) Are Government aware that trade in the above articles in the Cantonment was previously only subject to a licence fee and such licences could not be refused if the licensee was prepared to pay the licence fee and abide by the regulations?

(f) Are Government aware that by the grant of the above contract a monopoly has been created in favour of the stall-holders and that prices of the articles concerned have gone up and that there have been various complaints of deterioration of quality?

(g) Are Government aware that the persons who desire sub-leases of the shops in the market are referred to the stallage-contractors and that such contractors demand exorbitant rent for the shops or refuse them on unreasonable grounds?

(h) Are Government aware that shops in the Cantonment outside the market are not allowed to be opened for the sale of above articles and such applications have been refused?

(i) Are Government aware that the Cantonment Board had tried to create a monopoly of the stalls of meat in 1926, but the said attempt was defeated by the orders of Northern Command?

(j) Are Government further aware that the dairy shop is located next to the beef market and such contiguity is highly objectionable to Hindus who have to go there to purchase dairy products?

**Mr. G. R. F. Tottenham:** The information has been called for and a reply will be laid on the table in due course.

#### DEPORTATION OF MR. RANBIR SINGH.

1549. **\*Bhai Parma Nand:** (a) Is it a fact that Mr. Ranbir Singh, B.A., son of L. Khushal Chand, Proprietor of the daily *Milap*, has been deported under Regulation III of 1818? If so, to what place has he been taken?

(b) Are Government aware that at the time of his arrest Mr. Ranbir Singh was getting Rs. 200 for his pocket allowance? How much allowance do Government propose to give him during the period of his deportation?

(c) How long do Government propose to keep him under deportation? Will he be permitted to continue his studies?

(d) Will Mr. Ranbir Singh be permitted to write articles or books of a purely literary and innocent nature?

**The Honourable Mr. H. G. Haig:** (a) Yes. I am not prepared to state the place of detention.

(b) I have no certain information at present as regards his income prior to his arrest. The question of the allowance to be granted to him while detained as a State prisoner is under consideration, and will be decided shortly.

(c) and (d). He will be detained so long as this course is necessary in the public interest. He will be permitted to continue studies of an unobjectionable nature and to do such writing not for publication as is ordinarily permitted to State prisoners.

**Mr. Lalchand Navalrai:** Will the Honourable Member be pleased to state whether this man has been deported for his past sins or whether he has done anything fresh after he was acquitted by the High Court?

**The Honourable Mr. H. G. Haig:** The case against him is being referred to two Judges and I cannot say anything more than that.

**Mr. Lalchand Navalrai:** Will the Honourable Member be pleased to state what is the age of this boy? Is he 21?

**The Honourable Mr. H. G. Haig:** I am afraid I must ask for notice of that question.

**RECRUITMENT OF STAFF BY THE SUPERINTENDENT OF POST OFFICES,  
DERAJAT DIVISION.**

1550. **\*Bhai Parma Nand:** Will Government be pleased to state:

- (a) the number of Hindus, Sikhs and Muslims who have been recruited by the Superintendent of Post Offices, Derajat Division, as Lower Division clerks; when they were nominated and when examined; and
- (b) the number of Hindu, Sikh and Muslim officials, (i) in the non-clerical superior grade, (ii) lower grade staff, and (iii) the number of candidates for each community for the above grades in the Derajat Division?

**The Honourable Sir Frank Noyce:** With your permission, Sir, I propose to take questions Nos. 1550 and 1551 together. Information has been called for and will be placed on the table of the House in due course.

**Mr. M. Maswood Ahmad:** Is it a fact that in this area under Derajat Division Muslims are in a overwhelming majority?

**The Honourable Sir Frank Noyce:** As I have said, information in regard to the question is being called for.

**Mr. M. Maswood Ahmad:** Will the Honourable Member please inquire of this thing also?

**The Honourable Sir Frank Noyce:** Certainly.

**RECRUITMENT OF STAFF BY THE SUPERINTENDENT OF POST OFFICES,  
DERAJAT DIVISION.**

†1551. **\*Bhai Parma Nand:** Is it a fact that the Superintendent of Post Offices of the Derajat Division called for about 100 applicants from different places and examined them in July last for recruitment in the clerical line? If so, how many candidates have been declared successful and how many of them are Hindus, Muslims and Sikhs?

**NON-FAMILY STATIONS FOR POSTAL EMPLOYEES IN THE DERAJAT DIVISION.**

1552. **\*Bhai Parma Nand:** Is it a fact that in the Derajat Division there are Post Offices in which the employes of the department cannot keep their families? Is it not a fact that the Postal employees are sent to such non-family stations only for one year and that the present Superintendent of Post Offices has practically given up that usual practice? If so, are Government aware that this involves great hardship to certain persons?

†For answer to this question, see answer to question No. 1550.

**Mr. T. Ryan:** The reply to the first part of the question is in the affirmative. As regards the second part, the fact is that officials are not ordinarily required to serve at 'non-family' stations for more than two years and inquiries show that the present Superintendent of Post Offices has observed this rule except in the case of a few officials at their personal request. The last part of the question does not arise.

**PUNISHMENTS INFLICTED ON THE CLERICAL STAFF BY THE SUPERINTENDENT OF POST OFFICES, DERAJAT DIVISION.**

**1553. \*Bhai Parma Nand:** Will the Honourable Member for Industries and Labour please lay on the table a comparative statement showing the punishments inflicted on the Hindu, Muslim and Sikh employees of the clerical staff by the present Superintendent of Post Offices, Derajat Division, upto 30th June, 1932, from the day he took charge of his office, and also a similar statement of punishments by his predecessor during the corresponding period of the previous year? Is it also a fact that during one of his visits to D. I. Khan, the present Superintendent imposed fine on a Sikh and a Muslim employee for the same fault and later he remitted the fine on the Muslim employee and allowed it to stand on the Sikh in spite of his representation?

**The Honourable Sir Frank Noyce:** Government have no information; it would require a great deal of time and labour to collect, and it would be of little significance unless supplemented by an analysis of all the circumstances of each case.

**APPOINTMENT OF HINDUS AND SIKHS IN THE POSTAL DEPARTMENT IN THE NORTH-WEST FRONTIER PROVINCE.**

**1554. \*Bhai Parma Nand:** Is it a fact that in order to prevent the preponderance of any one community in any line orders were issued by the Director-General of Posts and Telegraphs in April, 1931, that one-third of the vacancies should be reserved for the less represented communities? If so, do Government propose to see that these orders are complied with in case of the Hindus and the Sikhs in the North-West Frontier Province?

**The Honourable Sir Frank Noyce:** The Honourable Member is referred to the reply given to Rao Bahadur M. C. Rajah's starred questions Nos. 930 and 931 in this House on the 24th September, 1931, in which the orders that were issued in April, 1931, are explained. Government have no reason to suppose that those orders are not being complied with in the North-West Frontier Province, but a copy of the question will be sent to the Postmaster General, Punjab and North-West Frontier.

**RETRENCHMENT IN THE NORTH WESTERN RAILWAY ACCOUNTS DEPARTMENT.**

**1555. \*Bhai Parma Nand:** Is it a fact that there has been heavy retrenchment in the North Western Railway Accounts Department? Have Government considered that this would have been unnecessary had the Audit and Accounts Departments been re-amalgamated?

**Mr. P. R. Rau:** There has been a certain amount of retrenchment; but, so far as I can see, amalgamation would have resulted in large retrenchments.

**REDUCTION IN THE EMOLUMENTS AND IN THE NUMBER OF TRAFFIC INSPECTORS.**

1556. **\*Bhai Parma Nand:** (a) Has there been reduction in the emoluments and also in the number of Traffic Inspectors?

(b) If not, why not? Is it a fact that the majority of them were Anglo-Indians?

**Mr. P. R. Rau:** I have called for information and will lay a reply on the table in due course.

**ABOLITION OF POSTS OF WAITING ROOM INSPECTORS, PLATFORM INSPECTORS, LUGGAGE INSPECTORS, WATER INSPECTORS AND LADY TICKET CHECKERS.**

1557. **\*Bhai Parma Nand:** Have Government considered the question of the abolition of posts like Waiting Room Inspectors or Inspectresses, Platform Inspectors, Luggage Inspectors, Water Inspectors and Lady Ticket Checkers in these days of financial stringency? If so, with what result?

**Mr. P. R. Rau:** During the recent economy campaign Railway Administrations have abolished or held in abeyance many such posts and I have no doubt that reductions have been made where practicable.

**RESERVATION OF POSTS OF ASSISTANT ACCOUNTS OFFICERS, NORTH WESTERN RAILWAY, FOR TRAVELLING INSPECTORS OF ACCOUNTS.**

1558. **\*Bhai Parma Nand:** Have the Railway Board considered the question of reserving the three posts of Assistant Accounts Officers, North Western Railway, for Travelling Inspectors of Accounts of that Railway, in conformity with the Auditor General's instructions of 17th January, 1922, to the Chief Auditor, North Western Railway?

**Mr. P. R. Rau:** The question will be considered in consultation with the Auditor General.

**Dr. Ziauddin Ahmad:** May I, in this connection, draw attention of the Honourable Member that this thing was considered by the Railway Board and that the Financial Commissioner of Railways also passed orders on it? Here it is:

"The Auditor General has approved the proposal contained in para. 10 of the above mentioned note that with a view to increasing the prospects of Travelling Inspectors of Accounts, the three appointments of Assistant Audit Officers recommended as a permanent measure in place of Travelling Auditors of Accounts be reserved ordinarily for Travelling Inspectors of Accounts, discretion being, however, retained to fill them by qualified accountants, if suitable men in the Travelling Inspectors class are not available."

And the Financial Commissioner noted:

"In accordance with the accepted policy all changes introduced will provide for the protection of the existing rights and privileges of those already in service."

I thought it was a settled question. Why this consultation again?

**Mr. P. R. Rau:** My Honourable friend is reading from some instructions of 1922; there was no Financial Commissioner at the time.

**Dr. Ziauddin Ahmad:** I am reading from paragraph 67 of Memorandum by the Financial Commissioner on the separation of Accounts from Audit on Indian Railways.

**"DISCHARGE" AND "ACQUITTAL" OF POSTAL OFFICIALS ACCUSED IN CRIMINAL CASES UNDER SECTION 209 OF THE CODE OF CRIMINAL PROCEDURE.**

**1559. \*Shaikh Sadiq Hasan:** (a) Will Government be pleased to state if the Director-General, Posts and Telegraphs, in his Circular Letter No. 106/S. B.-31, dated the 28th January, 1931, with a view to removing any misunderstanding, has directed his circle officers that "Discharge" of an accused in a criminal case under section 209 of the Criminal Procedure Code operates more favourably than "Acquittal" because, when an accused is discharged in a Court of law, it means that the trying Magistrate does not find sufficient evidence on which to charge the accused; an acquittal is pronounced when the evidence against the accused is sufficient to charge him and on calling for his defence the Magistrate finds that he has rebutted the prosecution evidence? If the reply to the above question be in the affirmative, are Government prepared to consider the cases of those postal officials who had fallen victims on account of such misunderstanding? ●

(b) Is it a fact that under Rule 54 (a) of the Fundamental Rules, an official is entitled to full pay and is liable to be considered as on duty and to count his such period towards service, for leave, pension and increment for the period he remained under suspension during trial of the case on his acquittal and subsequent reinstatement by his department?

**The Honourable Sir Frank Noyce:** (a) The reply to both parts of the question is in the affirmative.

(b) Rule 54 (a) of the Fundamental Rules provides that the revising or appellate authority may grant, for the period of absence from duty, in case of honourable acquittal, full pay, and any allowance of which the Government servant concerned was in receipt prior to his dismissal or suspension. Rule 54 further provides that in a case falling under clause (a) the period of suspension or dismissal will be treated as a period spent on duty.

**ABSENCE OF POST OFFICES IN CERTAIN LOCALITIES IN LAHORE CITY.**

**1560. \*Shaikh Sadiq Hasan:** (a) Are Government aware of the fact that in the Circles of Farooq Ganj, Shariefpura, Faiz Bagh, Misry Shah, Vassanpura and Chob Miran, Lahore City, there is not a single post office?

(b) Are Government aware that the combined population of the above places equals the population of a town? .

(c) What is the reason for the delay on the part of Government not to make arrangements for any post office in the above localities?

(d) Have Government considered the question of opening at least one branch post office somewhere near Misry Shah?

**Mr. T. Ryan:** (a) to (d). Government have no information. The matter is within the competence of the Postmaster-General, Punjab and North-West Frontier Circle, to whom a copy of the question is being sent.

**INTERPRETATION OF LEAVE PROVISIONS UNDER FUNDAMENTAL RULE 81.**

**1561. \*Shaikh Sadiq Hasan:** Will Government be pleased to state whether the Government of India (Finance Department) had issued a letter No. F.-42-C. S. R./24, dated the 23rd August, 1924, to all Provincial and Local Governments giving the true interpretation of sub-clause (i) of Clause (c) of Fundamental Rule 81 of the Fundamental Rules, ordering therein that leave not due on medical certificate may be granted to an officer, without limit of amount of time and without reference to the prospect of his returning to duty and earning leave equivalent to that amount of leave and had this letter remained in force up to the 6th May, 1929? If a reply to the above question be in the affirmative, are Government prepared to consider the cases of those officials who have suffered loss on account of misinterpretation of the Government orders referred to above? If not, why not?

**The Honourable Sir George Schuster:** The reply to the first sentence of the question is in the affirmative and to the second in the negative. In connection with the ruling contained in the Government of India letter of August, 1924, referred to by the Honourable Member, the question was considered whether an authority is bound to grant 'leave not due' in a case in which a medical certificate is submitted. It was ruled that since leave cannot be claimed as a matter of right and since the wording of Fundamental Rule 81 (c) (i) is permissive, an authority is not bound to grant 'leave not due' in such a case. If, therefore, in any such instance a sanctioning authority has refused 'leave not due', no misinterpretation of the rule has in fact occurred.

**EMPLOYMENT OF MUSLIMS AS COMPOUNDERS IN THE CIVIL AND MILITARY DISPENSARY, SIMLA.**

**1562. \*Shaikh Sadiq Hasan:** (a) Is it a fact that only one Muslim compounder is employed in the whole of the staff of the Civil and Military Dispensary, Simla? If so, will Government please account for the disproportion in the staff?

(b) Will Government please say whether they propose to take steps to remedy this grievance by employing more Muslims there?

(c) Is it not a fact that only during this current season an unpaid apprentice as compounder has been engaged in the Civil and Military Dispensary? If so, will Government please state the circumstances under which the said apprentice has been engaged, and whether any such apprentice has in the past been engaged in the Civil and Military Dispensary? Will Government also please state whether the intention in engaging the unpaid apprentice in the Civil and Military Dispensary is to appoint him as a paid apprentice when a vacancy occurs there?

**Mr. G. S. Bajpai:** (a) and (b). One of the seven compounders at this Dispensary is a Muslim. The question of increasing the Muslim proportion can be considered when a vacancy occurs.

(c) An unpaid apprentice was engaged during the last summer season to cope with the increased work, but this gives him no preferential claim to appointment when a vacancy occurs.



**ALLEGATIONS AGAINST THE HEAD COMPOUNDER IN THE CIVIL AND MILITARY DISPENSARY, SIMLA.**

1563. **\*Shaikh Sadiq Hasan:** (a) Are Government aware that the Head Compounder in the Civil and Military Dispensary, Simla, has been utilizing Government Medical Stores in his private practice?

(b) Is it a fact that the Head Compounder of the Civil and Military Dispensary, Simla, was in the month of September caught red-handed taking out Government Medical Stores from the Stores Room, and giving them over to an outsider?

(c) Is it a fact that the matter mentioned in part (a) was brought to the notice of the Civil Surgeon in charge of the Civil and Military Dispensary, Simla? If so, will Government please state what action has been taken against the Head Compounder?

(d) Is it not a fact that the present Head Compounder, Civil and Military Dispensary, Simla, was some years ago detected misappropriating Government Medical Stores and in consequence was fined? If so, will Government please state what action against the Head Compounder for his behaviour referred to at parts (a) and (b) above is intended to be taken?

(e) Is it a fact that there is an order prescribing penalties for Government Medical Stores being misappropriated by compounders, etc.? If so, will Government please state whether this order has ever been enforced in the cases of persons found guilty of the offence?

(f) Is it a fact that the Head Compounder of the Civil and Military Dispensary, Simla, indulges himself in private practice? If so, will Government please state whether compounders and Head Compounders are entitled to such private practice?

(g) If the reply to part (f) be in the negative, will Government please state why the Head Compounder has been allowed to do private practice?

**Mr. G. S. Bajpai:** (a) No.

(b) and (c). The case to which the Honourable Member refers was found, on enquiry, to be one of *bona fide* issue of medicines to an entitled patient on an urgent prescription of his authorised medical attendant, but the Head Compounder was wrong in issuing the medicines from the Store Room instead of from the Dispensary. For this mistake the Head Compounder's duty was changed from the Store Room to the Dispensary.

(d) The reply to the first part is in the affirmative. The second part does not arise in view of the reply to parts (a), (b) and (c).

(e) It is the practice to punish compounders found guilty of misappropriation of Government medical stores, but there are no special orders on the subject.

(f) and (g). Compounders are allowed private practice with the permission of their superior officers outside duty hours, provided that it does not interfere with their official duties and that Government medical stores are not used. The Head Compounder has been granted the necessary permission subject to these conditions.

**PUBLICATION OF THE INDIAN MERCHANT SHIPPING (AMENDMENT) BILL FOR ELICITING PUBLIC OPINION THEREON.**

1564. **\*Shaikh Sadiq Hasan:** (a) With reference to the Merchant Shipping Amendment Bill, are Government aware that the Muslim public generally and the orthodox classes particularly consider the clauses of the original Bill, as introduced in the Legislative Assembly, most objectionable and, if so, are Government prepared to have the Select Committee's report and amended Bill extensively published for eliciting public opinion thereon; if not, why not? Why are Government hurrying up in the matter?

(b) Will Government move the motion for consideration of the Bill in this Session?

(c) Are Government aware that even if the Bill be passed this Session, its clauses cannot be given effect to in this Haj season?

**Mr. G. S. Bajpai:** (a) Government have seen the comments on the Bill that have appeared in the Press. The Honourable Member has doubtless seen amendments that the Bill be circulated for eliciting public opinion, notice of which has been given by other Honourable Members in this House. Government's attitude towards this motion will be disclosed at the proper time. Government do not consider that the Bill has been or is being unduly hurried.

(b) This is Government's intention.

(c) Not necessarily.

**EMBEZZLEMENT OF MONEY IN THE GOVERNMENT HIGH SCHOOL, AJMER.**

1565. **\*Maulvi Sayyid Murtuza Saheb Bahadur:** (a) Will Government please enquire and state whether it is a fact that public money amounting to thousands of rupees in the Government High School, Ajmer, has been embezzled?

(b) If the reply to part (a) above be in the affirmative, will Government please enquire and state, (i) the amount embezzled, (ii) the years in which the embezzlement took place, (iii) the name of the Head Masters of the said High School in the period of the embezzlement and (iv) the number of the inspections of the said High School by the Superintendent of Education during the period of the said embezzlement?

(c) Is it a fact that the accounts of the said High School were checked in connection with the preparation of the quinquennial report of education under Ajmer-Merwara for the years 1923-27? If so, were the accounts found to be correct?

(d) Is it a fact that the period of embezzlement covered the years 1923-27? If so, why was not the embezzlement detected in connection with the preparation of the said quinquennial report?

(e) Will Government please enquire and state, (i) which officer collected and checked the statistics relating to the preparation of the said quinquennial report, and (ii) which officer compiled it?

(f) Is it a fact that under the Civil Accounts Code, Vol. I, the Head Master is responsible for the custody of Government money in the said High School?

(g) Is it a fact that all papers and books dealing with Government money transactions and accounts of the said High School are checked and signed by the Head Master of the said High School?

(h) Have Government called upon the persons who were Head Masters of the said High School during the period of the embezzlement to explain how and why the embezzlement had taken place?

**Mr. G. S. Bajpai:** With your permission, Sir, I shall deal with questions Nos. 1565, 1567, 1568 and 1572 together. The information asked for is being collected and will be laid on the table of the House in due course.

**Dr. Ziauddin Ahmad:** Shall we not be deprived of the opportunity of putting supplementary questions?

**Mr. G. S. Bajpai:** I can assure my Honourable friend that it is not with the intention of burking supplementary questions that I have given this reply. I have not had enough time to get the requisite report from the Chief Commissioner, Ajmer-Merwara.

**DECAMPING OF AN EMPLOYEE OF THE GOVERNMENT NAZARAT, AJMER-MERWARA, WITH GOVERNMENT MONEY.**

**1566. \*Maulvi Sayyid Murtuza Saheb Bahadur:** (a) Is it a fact that an employee of the Government Nazarat, Ajmer-Merwara, decamped with a sum of about five thousand rupees belonging to Government in 1932?

(b) Is it a fact that the Ajmer-Merwara Administration was unable to trace out the said employee and the Government money taken away by him?

**Mr. H. A. F. Metcalfe:** (a) Yes. The actual amount involved is Rs. 4,791-11-3, including a sum of Rs. 3,010 belonging to the District Board, Ajmer.

(b) Yes. The matter is under investigation. The question of responsibility for the loss is also under consideration.

**NON-AUDIT OF ACCOUNTS OF GOVERNMENT EDUCATIONAL INSTITUTIONS IN AJMER-MERWARA.**

†**1567. \*Maulvi Sayyid Murtuza Saheb Bahadur:** Is it a fact that the accounts of the Government educational institutions in Ajmer-Merwara have never been audited during the last ten years? If so, why? If audited, when was it?

**PURCHASE OF A CINEMA MACHINE AND ITS APPLIANCES BY THE ASSISTANT SUPERINTENDENT OF EDUCATION, AJMER-MERWARA.**

†**1568. \*Maulvi Sayyid Murtuza Saheb Bahadur:** (a) Is it a fact that a Cinema machine and its appliances were purchased, in 1928, by the Assistant Superintendent of Education, Ajmer-Merwara, from Messrs. J. Nath and Son, Ajmer, for Rs. 5,000?

(b) Are Government aware that the said Messrs. J. Nath and Son had purchased the said Cinema machine and its appliances for Rs. 900 from a firm at Lahore?

†For answer to this question, see answer to question No. 1565.

**UNQUALIFIED PERSONS APPEARING FOR LITIGANTS AS LEGAL PRACTITIONERS  
IN AJMER-MERWARA.**

1569. **\*Maulvi Sayyid Murtuza Saheb Bahadur:** (a) Will Government please enquire and state whether they are aware that in Ajmer-Merwara several persons who are not qualified as legal practitioners have made it their profession to appear for litigants under cover of special powers of attorney and are thus virtually doing the work of legal practitioners and defeating the provisions of the law relating to the appointment of legal practitioners in the Courts in Ajmer-Merwara?

(b) Is it a fact that the persons referred to in part (a) above appear in Ajmer-Merwara Courts, not in place of, but along with the litigants for whom they purport to appear as authorised agents?

(c) Do Government propose to take any steps in the matter? If so, what? If not, why not?

**Mr. H. A. F. Metcalfe:** The information asked for has been called for and a reply will be laid on the table in due course.

**COMPLAINTS AGAINST THE EDUCATION DEPARTMENT, AJMER-MERWARA.**

1570. **\*Maulvi Sayyid Murtuza Saheb Bahadur:** (a) Will Government please state whether it is a fact that a letter dated the 20th August, 1932, containing serious complaints against the Education Department, Ajmer-Merwara, under a registered cover, addressed by Swami B. Anand of Ajmer, was received by the Honourable the Education Member of the Government of India?

(b) Is it a fact that the Educational Commissioner with the Government of India and the Superintendent of Education, Delhi and Ajmer-Merwara, have also received copies of the letter referred to in part (a) above?

(c) Is it a fact that the Government of India have forwarded the letter referred to in part (a) above to the Local Administration of Ajmer-Merwara for disposal?

(d) Is it a fact that a number of letters containing serious allegations against the Education Department, Ajmer-Merwara, addressed to the Government of India by the said Swami B. Anand of Ajmer have been, for five years, forwarded to the Local Administration, Ajmer-Merwara, for disposal?

(e) Is it a fact that the Local Administration, Ajmer-Merwara, have never inquired into the allegations made by the said Swami B. Anand of Ajmer? If so, what are the results of the inquiries made by the said Local Administration?

(f) Will Government please inquire and state (i) how many times the said Swami B. Anand of Ajmer complained against the gross mismanagement of the Education Department, Ajmer-Merwara, to the Government of India during the last five years, (ii) how many times the Government of India forwarded the said complaints made by the said Swami B. Anand to the Local Administration, Ajmer-Merwara, for disposal and (iii) what were the results, in each case, at which the Local Administration of Ajmer-Merwara arrived?

**Mr. G. S. Bajpai:** (a), (b), (c) and (d). Yes.

(e) and (f) (iii). Information has been asked for from the Local Administration and, when received, will be laid upon the table of the House.

(f) (i) and (ii). The Government of India have received letters from Mr. B. Anand from time to time complaining against the Education Department of Ajmer-Merwara and have forwarded them to the Local Administration for disposal. No record of the number of these complaints has been kept.

**Dr. Ziauddin Ahmad:** May I ask whether the Government of India have expressed their opinion, or have acted merely as a post office?

**Mr. G. S. Bajpai:** I have stated that we have passed on these numerous complaints to the Local Administration for disposal. We did not express any opinion.

**Dr. Ziauddin Ahmad:** Are the Local Administration expected to give their opinion to the Government of India, or will they dispose of them themselves?

**Mr. G. S. Bajpai:** As I have stated, these letters or complaints were sent to the Local Administration for disposal. They were not sent to them for an expression of their opinion, but in relation to this question we have asked the Local Administration to let us know what action they took upon the complaints.

**FALSE AND COUNTERFEIT CERTIFICATES ISSUED DURING THE TIME OF THE PRESENT SUPERINTENDENT OF EDUCATION, AJMER-MERWARA.**

1571. **\*Maulvi Sayyid Murtuza Saheb Bahadur:** (a) Are Government aware that (i) false certificates for appearing at the Rajputana Board's examinations and (ii) counterfeit certificates for passing the said Board's examinations even before appearing at the examinations have been issued during the time of the present Superintendent of Education, Ajmer-Merwara? If so, what steps do Government propose to take in the matter?

(b) Will Government please state the names of the officers who have been issuing the false certificates referred to in part (a) above?

(c) Will Government please state whether it is a fact that the Local Administration of Ajmer-Merwara have secured some counterfeit and false certificates of the type referred to in part (a) above, and what action do Government propose to take in the matter?

(d) Will Government please lay on the table of the House a copy of the letter referred to in part (a) of the preceding question?

(e) Will Government please state whether it is a fact that the allegations made by the said Swami B. Anand of Ajmer in his letter referred to in part (a) of the preceding question related to the issue of false certificates, counterfeit certificates, leaking out of the examination question-papers, unnecessary appointment of outsiders, unjust supersession of teachers, wrong posting of officers and bad examination results during the time of the present Superintendent of Education, Ajmer-Merwara?

(f) Will Government please state whether the complaints made by the said Swami B. Anand of Ajmer referred to in part (e) above are true or false? If true, what steps have been taken, or are proposed to be taken in the matter? If false, why was no action taken against the complainant?

**Mr. G. S. Bajpai:** (a), (b), (c) and (f). The information asked for is being collected and will be laid on the table of the House in due course.

(d) and (e). Government regret their inability to lay a copy of the letter referred to by the Honourable Member on the table of the House, or to disclose the substance of its contents.

**Mr. M. Maswood Ahmad:** Is that a confidential thing?

**Mr. G. S. Bajpai:** No, it is not confidential. It contains personal statements which are really defamatory in character if they are not true, and Government do not think that this gentleman should be given the opportunity of giving publication to these statements through the privileged proceedings of this House.

**Dr. Ziauddin Ahmad:** Will the allegations made in this particular question also be referred to the Local Administration for disposal, or will the Government of India have an opportunity of expressing their opinion?

**Mr. G. S. Bajpai:** They have already referred these letters, which were received last August, to the Local Administration for disposal.

**Dr. Ziauddin Ahmad:** Since the Government of India are the final authority in educational matters as far as Ajmer-Merwara is concerned, it is very desirable that the Government of India should assume responsibility and not shove it on, to the Local Administration.

**Mr. G. S. Bajpai:** I can assure my Honourable friend that the Government of India have no disposition to shirk responsibility in regard to any matter, but when suggestions are made affecting matters of detailed administration, surely it is obvious that the right thing to do is to refer them to the authority immediately concerned, which is the Local Administration.

**Dr. Ziauddin Ahmad:** The charges are of a very serious nature. They have been referred to the Local Administration for their opinion, but the final authority ought to be the Government of India, and I think the Government of India are not prepared to take responsibility.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member is making a statement.

**Dr. Ziauddin Ahmad:** I just want to ask the Government of India whether they will or will not take responsibility for settling this question.

**Mr. G. S. Bajpai:** My Honourable friend may rest assured that if, on receiving the report from the Local Administration, the Government of India find that it is necessary or desirable for them to take some action, that action will be taken.

**Diwan Bahadur Harbilas Sarda:** The Honourable Member has said that the charges were of a serious nature. How does the Honourable Member know that the charges made are of a very serious nature? Have they been published? If the Honourable Member is in the confidence of the person who has made these charges, that is another matter. But this House knows nothing, and unless the House knows what the charges are, we are not in a position to ask the Government to do this thing or that thing.

**Dr. Ziauddin Ahmad:** The charges are in the question.

**DISCRIMINATION IN MATTERS OF ADMISSION AND PROMOTION OF STUDENTS  
IN THE GOVERNMENT HIGH SCHOOL, AJMER.**

†1572. \***Maulvi Sayyid Murtuza Saheb Bahadur:** (a) Are Government aware that a great deal of heart-burning among the poorer classes of pupils has been caused by the arbitrary discrimination in matters of admission and promotion of students in the Government High School, Ajmer, since the appointment of the present incumbent as the headmaster?

(b) Will Government be pleased to state whether it is a fact that during the time of the headmastership of R. S. Pt. P. B. Joshi in the Government High School, Ajmer, Jagdish, Bishnu Datt and Peer Chand who passed their Vernacular Final Examination in 1932 were admitted into the 8th class, but Bhanwar Lal and Ganpat Lal Nai who also passed their Vernacular Final Examination in 1932 were admitted into the 7th class of the said High School?

(c) If what is stated in part (b) above be a fact, will Government please give the reason for differentiation in the admission of the boys referred to in part (b) above?

(d) Is it a fact that the students holding fresh Vernacular Final Examination certificates are to be admitted, as a rule, in the 7th class of any high school? If so, why was the differentiation in the admission referred to in part (b) above brought into being?

**“INDIA IN 1930-31”.**

1573. \***Mr. S. G. Jog:** (a) Will Government state when the volume “India in 1930-31” was published?

(b) Will Government state the object of this publication?

(c) Was there any delay in the publication of this volume? If so, are Government prepared to take steps to publish these volumes without delay in future?

**The Honourable Mr. H. G. Haig:** (a) On the 14th September, 1932.

(b) The publication is prepared for presentation to Parliament in accordance with the provisions of section 26 of the Government of India Act.

(c) The delay in publication was mainly due to the deputation of the author for three and a half months as Publicity Officer to the Indian Franchise Committee and to the fact that the report was very detailed and comprehensive. The question of how such difficulties can be surmounted is under consideration.

**SUSPENSION OF THE RECOGNITION OF THE GREAT INDIAN PENINSULA  
RAILWAY WORKERS' UNION.**

1574. \***Mr. S. G. Jog:** (a) Are Government aware that the recognition of the Great Indian Peninsula Railway Workers' Union had been suspended by the Agent of the Great Indian Peninsula Railway?

(b) Is it a fact that the Agent, Great Indian Peninsula Railway, has reported to the Railway Board on page 83 of the annual report of 1931-32 that the Great Indian Peninsula Railway Workers' Union is the only representative union on the line?

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†For answer to this question, see answer to question No. 1565.

(c) Did the Agent ask the Union not to support the Wadi Bunder workers in their struggle and that its non-compliance would result in suspension of the recognition? If so, why?

(d) Are Government aware that the Agent had threatened the Great Indian Peninsula Railway Workers' Union to change their policy and be submissive to the Railway authorities?

(e) Will Government be pleased to place on the table of this House the whole correspondence that passed between the Agent and the Union (Great Indian Peninsula Railway Workers') for the information of this House?

(f) Will Government state if they are going to take any action against the Agent of the Great Indian Peninsula Railway for his action in withdrawing the recognition of the Union?

**Mr. P. R. Rau:** With your permission, Sir, I shall answer questions Nos. 1574 and 1575 together. I have called for certain information and will lay a reply on the table in due course.

#### SUSPENSION OF THE RECOGNITION OF THE GREAT INDIAN PENINSULA RAILWAY WORKERS' UNION.

†1575. **\*Mr. S. G. Jog:** (a) Are Government aware that prominent union workers, Messrs. L. S. Tikekar, Muthuswami, G. H. Kale and Vaze, formerly Great Indian Peninsula Railway employees, are the direct or indirect victims of the attitude of the Agent towards the Great Indian Peninsula Railway Workers' Union?

(b) Are Government aware that the orders of the Railway Board issued in their communiqué of the 1st March, 1932, regarding Mr. D. B. Kulkarni, late Sub A. S. M., Manmad, has not yet been carried out by the Agent of the Great Indian Peninsula Railway?

(c) Are Government aware that Mr. Kulkarni was put off duty by the Divisional Transportation Superintendent on the 2nd January, 1930, and discharged on the 21st May, 1930, on the ground of unauthorized absence?

(d) Are Government prepared to assure this House that proper enquiries will be made into the case of the suspension of the recognition of the Great Indian Peninsula Railway Workers' Union and discharges of men mentioned in parts (a) and (b) and immediate steps will be taken to put the matters right?

(e) Is it a fact that Mr. Kulkarni's case has been represented to the Railway Board by A. I. R. F. for the last two years and no definite reply has yet been given?

#### TERMINAL TAX ON PASSENGERS GOING TO BHUBANESWAR, SAKHIGOPAL AND PURI.

1576. **\*Mr. B. N. Misra:** With reference to the answers given to my starred question No. 1397 of the 22nd November, 1932, and No. 1082 of the 9th November, 1932, as regards the imposition of a terminal tax on passengers proceeding to (1) Puri (2) Sakhigopal and (3) Bhubaneswar, will Government be pleased to state:

(a) in what year or years the said tax was imposed and with what object;

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†For answer to this question, see answer to question No. 1574.



- (b) what is the amount of money that was collected in each year till April, 1932, since its imposition;
- (c) in what year for the first time the said tax was imposed;
- (d) what is the total amount of collection under that head till April, 1932, since its imposition;
- (e) whether the said sum has been given to any municipality or Local Government for expenditure?
- (f) if not, where the money lies;
- (g) whether it is still being collected or not;
- (h) whether Government have stopped the collection, and since what year; and
- (i) if the information is not available, whether Government are prepared to collect the information and lay the same on the table of this House?

**Mr. P. R. Rau:** I have already given a full answer to most of the questions asked by my Honourable friend, but I am quite willing to recapitulate the replies for his benefit.

(a), (c) and (e). The tax was imposed in 1921 by the Government of Bihar and Orissa under section 23 of the Bihar and Orissa Places of Pilgrimage Act, 1920. It is collected through the agency of the Bengal Nagpur Railway, which is required to pay the terminal-tax to the Puri Lodging House fund or to such officer as the Government of Bihar and Orissa may direct, after deducting therefrom sums which that Government may approve to meet the expenses incurred in connection with the collection of the tax. The tax was imposed in order to provide funds for the improvement of sanitary condition of Puri.

(b), (d) and (i). I have already explained to my Honourable friend that in the opinion of Government the collection of information regarding the taxes collected and the expenditure therefrom from 1921 onwards will entail an expenditure of labour incommensurate with its value and are unable to comply with his request in full; but I have obtained figures for the year ending March, 1932, from the Agent of the Bengal Nagpur Railway. The total net amount paid to the President, Puri Lodging House Fund Committee in that year on account of this tax was Rs. 27,543 made up as follows:

						Rs.
Puri	..	..	..	..	..	23,857
Sakhigopal	..	..	..	..	..	1,596
Bhubaneswar	..	..	..	..	..	2,090

(f) Does not arise.

(g) and (h). So far as Government are aware, it is still being collected.

**Mr. B. N. Misra:** When pilgrims come from all parts of India, why should the tax be collected only by the Bengal Nagpur Railway and not the other railways?

**Mr. P. R. Rau:** It is collected through the Bengal Nagpur Railway, but the tax is collected from all passengers, travelling partly by the Bengal Nagpur Railway, and partly by other railways.

**Mr. S. O. Mitra:** May we take it that all the passengers that go to Puri or Sakhigopal have to pay the terminal-tax, whether they book at Howrah or other station?

**Mr. P. R. Rau:** All passengers who are travelling from beyond a certain limit prescribed by the Act.

**REASONS FOR REJECTING APPLICATIONS BY AN OFFICER OF THE POSTAL DEPARTMENT.**

**1577. \*Mr. Muhammad Azhar Ali:** (a) Will Government please state whether on any occasion when a certain application submitted to an officer or the Head of the Postal Department is rejected, the applicant is entitled to know the ground on which the application has been rejected?

(b) If the applicant is not entitled to know the grounds, why; and are there any Government orders to that effect?

**The Honourable Sir Frank Noyce:** (a) No.

(b) There are no Government orders on the subject and it is obvious that Government must leave to its officers complete freedom to decide whether or not the reasons for the rejection of an application should be communicated to the party concerned.

**DEFINITION OF "ORTHODOX HINDU COMMUNITY".**

**1578. \*Rao Bahadur M. C. Rajah:** With reference to the answer given to starred question No. 1421 on the 23rd November, 1932, will Government state:

(a) if they have laid down, and if so, what is the definition of the term "Orthodox Hindu community"; and

(b) whether the "Orthodox Hindu community" comprises of Brahmins or non-Brahmins?

**The Honourable Mr. H. G. Haig:** With your permission, Sir, I propose to reply to question Nos. 1578 and 1579 together. I am afraid my information on these subjects is defective, and I would suggest that the Honourable Member should address his enquiries to one of the learned Pandits opposite (Laughter) who would no doubt be prepared to give him a complete answer.

**Mr. Amar Nath Dutt:** Who is the Pandit referred to?

**The Honourable Mr. H. G. Haig:** One of the learned Pandits is behind the Honourable Member.

**Pandit Satyendra Nath Sen:** From parts (b) and (c), do Government realise that high caste Hindus are not severe upon the so-called Depressed Classes, but treat them with proper consideration?

**The Honourable Mr. H. G. Haig:** I am quite prepared to accept any assurance my Honourable friend gives me

**PROTECTION AGAINST TEMPLE ENTRY BY UNTOUCHABLES.**

†1579. **\*Rao Bahadur M. O. Rajah:** (a) With reference to the answer given to question No. 1422 answered on the 23rd November, 1932, are Government aware that the orthodox Hindu community holding orthodox views is only a microscopic minority of the whole Hindu population?

(b) Are Government aware that Nanda, a *Saivaite* Saint and Tirupan Alwar, a *Vaishnava* Saint are worshipped in *Saivaite* and *Vaishnava* temples respectively as gods along with the other gods and that these saints belong to the so-called untouchable community?

(c) Are Government aware that in the temple of Jagannath in Puri, all Hindus are allowed into the temple and that they eat together the *Maha Prasad* offered to the god?

**POSTS ABOLISHED IN THE CENTRAL CIRCLE AND RAILWAY MAIL SERVICE BRANCHES.**

1580. **\*Mr. Goswami M. R. Puri:** (a) Will Government be pleased to state the number of posts abolished in the Central Circle and Railway Mail Service branches from the 1st July, 1931, in the matter of:

- (1) Departmental Branch Postmasters;
- (2) Overseers;
- (3) Postmen and Village postmen;
- (4) Mail Peons;
- (5) Packers;
- (6) Messengers or runners;
- (7) Clerks; and
- (8) Postal and Railway Mail Service officers?

(b) Will Government be pleased to state the number of men thrown out of employment in each of the above cadres in the Central Circle since 1st July, 1931?

**Mr. T. Ryan:** (a) Up to 1st May, 1932, the latest date for which accurate figures are available, the number of posts abolished since July, 1931, was as follows:

(1) Departmental Branch Postmasters	..	..	24
(2) Overseers .. ..	..	..	11
(3) Postmen and village postmen	..	..	118
(4) and (5) Mail peons and Packers	..	..	details are not available.
(6) Messengers or Runners .. ..	..	..	102
(7) Clerks .. ..	..	..	108
(8) Officers .. ..	..	..	2

(b) Government have no information as to the exact number of men finally thrown out of employment as a result of these measures.

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†For answer to this question, see answer to question No. 1578.

INDIAN FOREST SERVICE OFFICERS.

1581. \*Sardar Sant Singh: (a) How much have Government to spend on the training of each directly recruited officer for the Indian Forest Service?

(b) What is the total number of Indian Forest Service officers in each province and how many of them are Europeans, statutory Indians and Indians, and what percentage does each of the community form?

(c) How many of these officers are directly recruited and how many of them are promoted from the lower ranks in each of the province and why does their number differ in each province?

(d) What reduction in the strength of the Indian Forest Service in each province has been effected and how many of the retrenched personnel are Indians and how many Europeans, and with how much service?

(e) What more retrenchment is contemplated in each of the Provinces?

(f) What was the proportion of Indians before the retrenchment and what is it at present?

(g) Who are the Indians who have been or being retrenched on grounds of inefficiency from each of the provinces?

(h) Do Government propose to recruit and spend on the training of any more Indian graduates for the Indian Forest Service only after all the young Indian retrenched officers are absorbed? If not, why not?

Mr. G. S. Bajpai: (a) Since 1926, Indian probationers for the Indian Forest Service have been trained at Dehra Dun and the cost of training them has averaged Rs. 27,300 per probationer. This figure includes the contributions made by Local Governments. No expenditure has been incurred on the training of European officers recruited in the United Kingdom.

(b) and (c). A statement giving what is understood to be the information asked for in part (b) and the first part of (c) of the Honourable Member's question is laid on the table. In 1920 it was decided to allot 12½ per cent. of the superior posts in each province to promoted officers, to be filled as vacancies occurred, and in 1930 the proportion was raised to 25 per cent. Variation in the number actually promoted in different provinces is due to the varying strengths of the provincial cadres and to the rate at which vacancies occurred amongst the directly recruited officers.

(d) A statement is laid on the table.

(e) Proposals for the reduction of the strength of the Indian Forest Service cadres in the Punjab and Assam are under consideration.

(f) The percentage of Indians, including statutory Indians, before retrenchment was about 30·9. It is now 31·8.

(g) One from the Central Provinces and one from Burma.

(h) Recruitment to the Indian Forest Service, both by direct appointment and by promotion, has been suspended pending a decision on the recommendation of the Services Sub-Committee of the Indian Round Table Conference that the Indian Forest Service should be provincialised. This part of the question does not, therefore, arise.

*Statement showing the number of officers on the Indian Forest Service cadre of the provinces, their nationality and the method of recruitment, on 1st January 1932.*

Province.	Europeans.		Statutory Indians.		Indians.		Total No. of officers.	No. of promoted officers.	No. of direct recruits.
	No. of Europeans.	Percentage.	No. of Statutory Indians.	Percentage.	No. of Indians	Percentage.			
Madras . . .	29	51	2	4	26	45	57	7	50
Bengal . . .	15	68	..	..	7	32	22	2	20
Bombay . . .	20	80	..	..	5	20	25	2	23
United Provinces	24	68.5	..	..	11	31.5	35	7	28
Punjab . . .	18	56.2	..	..	14	43.8	32	4	28
Bihar and Orissa	8	50	1	6	7	44	16	2	14
Burma . . .	71	94.7	1	1.3	3	4	75	2	73
Central Provinces	19	59.4	1	3	12	37.6	32	3	29
Assam . . .	12	63.1	1	5.3	6	31.6	19	2	17
Total . . .	216	69.01	6	1.92	91	29.07	313	31	282

*Statement showing the reductions made in the Indian Forest Service cadres of Burma, United Provinces, Central Provinces and the Punjab as a measure of retrenchment:*

Province.	No. of posts reduced.	No. of officers who retired on superannuation.	No. of officers retrenched.			
			Europeans.		Indians.	
			No.	Total service (approximate):	No.	Total service (approximate):
Burma . . .	12	3	8	2 with 22 years' service 1 with 20 years' service 1 with 16 years' service 1 with 11 years' service 2 with 10 years' service 1 with 7 years' service	1*	6 years.
United Provinces	3†	..	..	....	..	..
Central Provinces	3†	..	1	11 years . . . .	1	9 years
Punjab . . .	1	..	1	27 years . . . .	..	..
Total . . .	19	3	10	....	2	..

\* Burman.

† Three vacant posts were abolished.

‡ The third post will be absorbed as soon as a vacancy occurs.

**FACILITIES PROVIDED FOR KEEPING OF MILCH COWS IN NEW DELHI.**

1582. \*Sardar Sant Singh: (a) Will Government please state what facilities have been provided for the tenants of D. I. Z. Area, New Delhi, for keeping milch cows for their use?

(b) Are Government aware that cow-byres built for the purpose are insufficient to meet the growing demands of the tenants in the above area and that there exists no cow-byres in Joffre, Edward, Diaz, Foch, Haig, French, Market, Baird, and Raja Bazar Squares? If so, do the tenants concerned keep milch cattle in their quarters?

(c) Is it a fact that the above arrangement is not permissible under certain bye-laws of the New Delhi Municipality and that tenants are threatened with prosecution, under paragraph 182 of the Punjab Municipal Act, 1911, for tethering their cattle outside their quarters on the space belonging to those quarters towards service roads?

(d) Are Government aware that it is not possible to keep the cattle within a quarter for 24 hours?

(e) Is it not a fact that the space referred to in part (c) above does not form part of the street and that the general traffic has nothing to do with it? If so, do Government propose to protect the law-abiding citizens from harassment by the Municipal Committee and to see that no unreasonable obstacles are placed in the way of tenants who maintain cows for their requirements?

Mr. G. S. Bajpai: (a) Eight cattle-byres have been provided in the D. I. Z. Area, New Delhi, which provide accommodation for 368 heads of cattle.

(b) Yes, but there is also a tendency to keep more cattle than are required to meet the needs of the area.

(c) Although the legal position is as stated by the Honourable Member, clerks residing in Government quarters have been temporarily exempted from the operation of the "Stable and Cow-house bye-laws" for the reason mentioned in part (b) of the question. The Honourable Member will appreciate that in the interests of the health, not only of this area but of the city as a whole, this exemption cannot be extended to those who keep an unreasonably large number of cattle within their quarters or tether them outside their houses, or on public roads and passages.

(d) No. The interior of most quarters includes an open space where cattle can be tethered.

(e) The answer to the first part is in the negative. The second part does not arise.

**RETIREMENT, ETC., OF MEMBERS OF THE SUPERIOR SERVICES UNDER THE RETRENCHMENT SCHEME.**

1583. \*Sardar Sant Singh: Will Government be pleased to state how many members of the Superior Services have been made to retire under the Retrenchment Scheme and how many appointments have been abolished in this connection and, in cases where these appointments have been filled, what emoluments have been given to the incumbents?

The Honourable Sir George Schuster: The information is being collected and will be laid on the table in due course.

**RE-EMPLOYMENT OF RETRENCHED OFFICERS OF THE SUPERIOR SERVICES.**

1584. \***Sardar Sant Singh**: Will Government be pleased to state how many of the retrenched officers of the Superior Services have been re-employed and what pay they have been given in the case of re-employment? Have they been treated on a footing different from that of the retrenched clerks? If so, why?

**The Honourable Sir George Schuster**: If the Honourable Member is referring to the re-employment of retrenched officers of the All-India and Class I Central services in posts under the Central Government, Government are not aware that any such appointment has been made. The latter part of the question therefore does not arise.

**OCCUPATION OF THE EASTERN HOSTEL IN NEW DELHI.**

1585. \***Mr. Nabakumar Sing Dudhoria**: Will Government be pleased to state:

- (a) the class of people that have been occupying at present the building called the Eastern Hostel in New Delhi;
- (b) whether they are all Government servants;
- (c) to what department or departments they belong;
- (d) how many of such servants have been in occupation of the flats and quarters;
- (e) the total monthly contributions they are making by way of rent, etc.;
- (f) whether such contributions are charged according to the proportion of their pay;
- (g) how many among the occupants are (1) Hindus (2) Muslims, (3) Anglo-Indians and (4) Europeans;
- (h) whether the building was originally constructed for the occupation of such people as are occupying it now;
- (i) the monthly contributions obtained from the Telegraph and Post Offices, respectively; and
- (j) whether electric current and water consumption are charged separately from the occupants?

**Mr. T. Ryan**: Information is being obtained and a complete reply will be placed on the table of the House in due course.

**PREFERENTIAL TREATMENT IN THE SUPPLY OF UNIFORMS ON THE NORTH WESTERN RAILWAY.**

1586. \***Kunwar Hajee Ismail Ali Khan**: (a) Is it a fact that the North Western Railway, Delhi Division, gives uniform to its running staff twice a year, but this year winter clothing has been stopped owing to retrenchment?

(b) Is it a fact that in this winter uniforms have been supplied by the North Western Railway to their European, Anglo-Indian and even Indian Christian staff in the Delhi Division?

(c) If the answer to the above be in the affirmative, will Government kindly inform the House why this preferential treatment was made between Christians and non-Christians?

**Mr. P. R. Rau:** I have called for information and will lay a reply on the table in due course.

**LOW PERCENTAGE OF MUSLIMS IN THE OFFICE OF THE DIRECTOR-GENERAL, INDIAN MEDICAL SERVICE:**

1587. **\*Mr. Muhammad Muazzam Sahib Bahadur:** (a) Is it a fact that the percentage of Muslims in the office of the Director-General, Indian Medical Service, is very low as compared with other communities? If so, what steps are Government taking to increase their proportion?

(b) Is it a fact that a stenographer in that office deals with cases relating to appointments and other establishment matters?

**Mr. G. S. Bajpai:** (a) A statement giving the communal composition of the clerical establishment of the Director-General, Indian Medical Service, is laid on the table. The general policy of Government to prevent the preponderance of any one particular class or community has been adopted in this office.

(b) The attention of the Honourable Member is invited to the reply given by me on the 9th November, 1932, to starred question No. 1081.

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*Statement.*

There are seven Muslims, five Europeans and Anglo-Indians, one Indian Christian, one Sikh, and twenty Hindus in the office of the Director-General, Indian Medical Service.

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**APPOINTMENT OF A MUSLIM STENOGRAPHER IN THE OFFICE OF THE DIRECTOR-GENERAL, INDIAN MEDICAL SERVICE.**

1588. **\*Mr. Muhammad Muazzam Sahib Bahadur:** Is it a fact that there are three stenographers in the office of the Director-General, Indian Medical Service? Will Government please state how many of them are Muslims? If there is no Muslim stenographer, will Government please state whether they propose to appoint one when the next vacancy occurs?

**Mr. G. S. Bajpai:** None of the three stenographers is a Muslim. The Honourable Member will appreciate that Government's policy to avoid the preponderance of any one community has to be applied to a service or establishment as a whole, and not to a particular section or branch of it. He may, however, rest assured that, when a vacancy occurs amongst the stenographers in the office of the Director-General, Indian Medical Service, the claims of duly qualified Muslims will be considered.

**ABOLITION OF ONE OR TWO POSTS OF STENOGRAPHERS IN THE OFFICE OF THE DIRECTOR-GENERAL, INDIAN MEDICAL SERVICE.**

1589. **\*Mr. Muhammad Muazzam Sahib Bahadur:** Will Government kindly say whether they have considered that the stenographers' work in the Director-General, Indian Medical Service office justifies the existence of the three posts of stenographers? Is it a fact that one of the stenographers is employed practically as a typist only and has no shorthand work to do? If so, will Government say whether they have



considered the abolition of one or two of the posts of stenographers? If not, why not?

**Mr. G. S. Bajpai:** No stenographer is employed as a typist only, and Government are satisfied that it is not possible to abolish any of the three posts.

**RULES FOR RESERVATION OF BERTHS FROM INTERMEDIATE STATIONS ON THE EAST INDIAN RAILWAY.**

**1590. \*Pandit Satyendra Nath Sen:** (a) What is the rule for reserving a berth from an intermediate station on the East Indian Railway? Is the passenger bound to pay fare from the station from which the train starts or can he pay fare from the station from which he intends to entrain, taking the risk as contemplated in the last paragraph of rule 14 on page 184 of East Indian Railway Time Table?

(b) If the latter, will Government be pleased to state, whether any instruction can be issued by the Divisional Superintendent to the booking clerk of an intermediate station to realise fares from the starting station of the train, from a passenger who entrains at an intermediate station although he is willing to take the risk as contemplated in the last paragraph of rule 14 of page 184 of the East Indian Railway Time Table?

(c) If the answer to part (b) be in the affirmative, will Government be pleased to state under what rule such instructions are issued to the booking clerk of the station from which the passenger wishes to entrain?

(d) If the answer to part (b) be in the negative, do Government propose to put a stop to the practice of issuing such instructions by Divisional Superintendents?

**Mr. P. R. Rau:** (a) Rules regarding the reservation of such berths are contained in the Time Table issued by the East Indian Railway and available for sale to the public. According to these rules, a passenger can pay the fare from the station at which he intends to entertain, provided he accepts the condition that the Railway assumes no liability in the matter in the event of the berth required not being available.

(b), (c) and (d). I have sent a copy of this question to the Agent of the East Indian Railway for such action as he may consider necessary.

**Mr. M. Maswood Ahmad:** Are Government aware that now-a-days no first and second class compartment is attached at the headquarters of Bihar and Orissa, Patna, for the upward journey on the East Indian Railway?

**Mr. P. R. Rau:** No, Sir; but I cannot understand how that arises out of the question.

**Mr. M. Maswood Ahmad:** The original question relates to the reservation of berths on the East Indian Railway and so this supplementary question arises. Are Government aware that this question has been raised on the floor of this House since two years at several times and on several budget occasions?

**Mr. P. R. Rau:** Probably it will be raised in the next Budget Session too.

**Mr. M. Maswood Ahmad:** Of course, it will be raised if Government will not listen to our grievance. Will Government ensure that a Member coming from Patna will be paid fare from Calcutta if the seat is reserved from there?

**Mr. P. B. Rau:** That is a question for the Legislative Assembly Department.

**Mr. M. Maswood Ahmad:** I am not asking you because you are the Finance Member for the Railways. I ask the question from the Government. Do they realise the defect in the rule and do they realise the troubles of the public of Patna.

**Mr. Amar Nath Dutt:** Part (b) inquires whether the booking clerk can be instructed to realise fares from the starting station for a berth reserved from an intermediate station. I want to know whether there are any such instructions?

**Mr. P. B. Rau:** I understand the intention of the question is to point out that the Divisional Superintendent is not obeying the instructions laid down by the Agent. I am, therefore, communicating a copy of this question to the Agent of the East Indian Railway to see that his instructions are followed.

**Mr. Amar Nath Dutt:** What I say is that there is no warrant for issuing such instructions. If the booking clerks at intermediate stations want fares from the starting stations, will Government stop it?

**Mr. P. B. Rau:** That is why I am sending a copy of the question to the East Indian Railway. It is in order to see that the subordinate staff do not collect from the passengers more than they are entitled to.

#### REMOVAL OF THE PETROL PUMP INSTALLED NEAR THE BAIRD ROAD CROSSING IN NEW DELHI.

1591. **\*Mr. S. O. Mitra:** (a) Will Government be pleased to state whether the New Delhi Municipal Committee enforces the traffic bye-laws within the area under its jurisdiction?

(b) If the reply to part (a) be in the affirmative, is it a fact that some 15 motor lorries belonging to the Municipality stand every morning near the Baird Road crossing close to the shop of Best Cheap and Co., New Delhi?

(c) Is it a fact that these motor lorries stand there for the purpose of taking petrol from a petrol pump installed there?

(d) Are Government aware of the inconvenience to the public which the motor lorries cause by way of closing traffic for a considerable time at so congested an area?

(e) Have Government considered the advisability of having this petrol pump removed to a more spacious quarter and thereby save the residents of the locality from the inconvenience and their children from the danger of being run over by motor cars coming to the place for the purpose of taking petrol.

**Mr. G. S. Bajpai:** With your permission, Sir, I shall answer all the parts of this question together. The New Delhi Municipal Committee do

enforce traffic bye-laws within the area under their jurisdiction. The petrol pump referred to by the Honourable Member is located on a site which is no more dangerous to the public than any other that might be chosen. Lorries and cars, which take petrol from this petrol tank which is on the kerb of the road, stand alongside of it and then only for a short period in order to refuel. Motor lorries belonging to the Municipality presumably do likewise although the number of them that do so is not known. However, if the Honourable Member will mention to me any specific instance or instances in which motor vehicles have disregarded the convenience and safety of the general public when making use of this particular pump, I shall bring them to the notice of the local authorities.

## UNSTARRED QUESTIONS AND ANSWERS.

### RETRENCHMENT OF POSTAL OFFICIALS IN SIMLA.

220. **Mr. M. Maswood Ahmad:** With reference to the reply to starred question No. 1057, dated 9th November, 1932, will Government be pleased to state:

- (a) if it is a fact that many of the retrenched officials in the Postal Department, Simla, were retrenched on account of serious charges against them; and
- (b) if it is a fact that those retrenched on the ground of economy were not retrenched from other communities because other communities were inadequately represented?

**The Honourable Sir Frank Noyce:** (a) No.

(b) This part of the question is not clearly understood; but it will perhaps meet the Honourable Member's point if I explain that in the Punjab and North-West Frontier Circle, as elsewhere, the general principle approved by Government has been observed, that the proportions in which the minority communities are represented in the service should not be materially affected by the process of retrenchment; but that where there was room for the exercise of discretion a small allowance has been made in favour of some of the minority communities which were only slightly represented in the service.

### REPLACING THE APPOINTMENT CLERK AND TOWN INSPECTORS OF POST OFFICES OF SIMLA BY MUSLIMS.

221. **Mr. M. Maswood Ahmad:** (a) Is it a fact that up to 10th September, 1932, the Town Inspector, South was a Hindu and prior to 20th March, 1932, both the Town Inspectors of Simla were Hindus for a long time and that the Appointment Clerk prior to July, 1932, was a non-Muslim?

(b) How many Muslim Appointment Clerks are there in the Punjab which is a predominantly Muslim Province?

(c) Are Government aware that where Hindus are Appointment Clerks or Town Inspectors it has become a cause of many a grievance among Muslim employees? If so, are Government prepared to arrange to remove these grievances by replacing the Appointment Clerk and Town Inspectors by Muslims?

**Mr. T. Ryan:** (a) The facts are substantially as stated by the Honourable Member.

(b) The term 'appointment clerks' is really a misnomer as the clerks so designated have no power of appointment but are merely in subordinate charge of that administrative branch of an office which deals with questions of staff and establishment. The designation of the posts will be suitably altered so as to prevent misconception. Of the 23 clerks in charge of such branches in the Punjab, twelve are Muslims.

(c) No. The latter part of the question does not arise.

**SPEECH DELIVERED BY KHAN SAHIB MALIK KARAM DIN, TELEGRAPH MASTER, LAHORE, IN THE MEETING OF THE INDIAN POSTS AND TELEGRAPHS MUSLIM UNION, LAHORE.**

**222. Mr. M. Maswood Ahmad:** (a) Are Government aware that:

- (i) the speech mentioned in the starred question No. 1109 asked in the Legislative Assembly on the 14th November, 1932, does not appear in the said question in the same wordings as it is in the *Postal Advocate*;
- (ii) there is no such sentence as 'crafty and wolves in sheep's clothing belonging to a class which measures everything in rupees annas pies and feeling no scruples to achieve their end;' in any one place in the speech;
- (iii) phrases from different places have been taken and joined together; and
- (iv) from some portions of the speech certain words are omitted?

**The Honourable Sir Frank Noyce:** (a) (i) The question to which the Honourable Member refers did not purport to reproduce the speech *verbatim* but merely quoted its more objectionable features.

(ii), (iii) and (iv). Do not arise.

**NON-APPOINTMENT OF MUSLIMS IN THE CAWNPORE GENERAL POST OFFICE AND GENERAL TELEGRAPH OFFICE.**

**223. Mr. M. Maswood Ahmad:** Is it a fact that in contravention of Government of India's clear and repeated orders regarding recruitment of minority communities by reservation of seats, not a single Muslim was appointed in the Cawnpore Government Telegraph Office as a clerk whereas four Hindu Time Scale clerks were appointed in that office and three outsider Hindus were appointed as lower grade clerks in the General Post Office, Cawnpore?

**The Honourable Sir Frank Noyce:** As regards the first part of the question, the fact is not exactly as stated. Recruitment of clerks for Telegraph Offices is made on a Circle basis. Out of the total number of 16 clerks recruited for Telegraph Offices in the United Provinces Circle since November, 1927, including the four clerks of the Cawnpore Government Telegraph Office, six belonged to minority communities, of whom five were Muslims.

As regards the latter part, the fact is that three former approved candidates for the Upper Division clerical service, all of whom were

Hindus, were appointed to act as lower division clerks in consideration of their previous service. I am taking up the question of communal representation in the case of such appointments.

**COMMUNAL COMPOSITION OF CERTAIN STAFF OF THE GENERAL POST OFFICE, GENERAL TELEGRAPH OFFICE AND RAILWAY MAIL SERVICE, CAWNPORE.**

**224. Mr. M. Maswood Ahmad:** (a) Will Government be pleased to place on the table a statement showing the communal composition of (A) Cawnpore Head Post Office, (B) Cawnpore Government Telegraph Office and (C) Cawnpore R. M. S. under the following heads:

(i) Cawnpore Government Post Office—(1) Selection Grade appointments, (2) Clerks, (3) Postmen, (4) Inferior Servants, (5) Stamp Vendors and (6) Lower Grade clerks.

(ii) Cawnpore Government Telegraph Office—(1) Clerks, (2) Delivery Peons, (3) Linemen, (4) Line Inspectors, (5) Sub-Inspectors, (6) Telephone Operators, (7) Electric Mistries and (8) Boy Peons,

(iii) Cawnpore R. M. S.—(1) Sub-Record Clerks, (2) Head Sorters, (3) Sorters and (4) Peons?

(b) Will Government be pleased to state how many vacancies occurred in Cawnpore in each of the above three offices under each head since 1927?

(c) How many Muslims have been appointed there since 1927 in each of the above three offices under each head as mentioned?

(d) How many members of minority communities other than Muslims have been appointed since 1927 in the above three offices under each head as mentioned above?

**The Honourable Sir Frank Noyce:** (a), (b), (c) and (d). Information is being collected and will be laid on the table of the House in due course.

**FILLING UP OF VACANCIES OF INSPECTORS, RAILWAY MAIL SERVICE, IN THE SIND AND BALUCHISTAN CIRCLE.**

**225. Mr. M. Maswood Ahmad:** (a) Is it a fact that there have been three vacancies of Inspector, Railway Mail Service, in the Sind and Baluchistan Circle, two of which were vacated by Muslims and the third by a Hindu?

(b) Is it a fact that the appointments of Inspectors are earmarked by the Director General for the junior candidates?

(c) Is it a fact that all the three vacancies were filled in by Hindus, two by promotion from Railway Mail Service clerks and the third by importing a Muslim already provided in selection grade in a permanent vacancy in the Director General, Post and Telegraphs Office, and providing a Hindu in the consequent vacancy?

**The Honourable Sir Frank Noyce:** (a) Yes.

(b) The Honourable Member is referred to the reply to parts (f) and (g) of Mr. S. C. Mitra's starred question No. 792 in this House on the 14th March, 1932.

(c) Yes, assuming that by the Director General's office the Honourable Member means the office of the Director of Posts and Telegraphs, Sind and Baluchistan Circle. I may, however, remark that appointments to posts of Inspectors and to the selection grade are made by promotion and the orders regarding communal representation apply only to recruitment and not to promotion.

**RETIREMENT OF MR. HAYMAN, MEMBER, STAFF DUTIES, RAILWAY BOARD.**

**226. Mr. M. Maswood Ahmad:** (a) Has the attention of Government been drawn to the news published in the *Hindustan Times* of 18th November, 1932, about the retirement of Mr. Hayman?

(b) Will Government be pleased to state whether it is a fact that Mr. Hayman, Member, Staff Duties, Railway Board, is retiring from his post in the Railway Board?

(c) Will Government be pleased to state the communal composition of the Commissioners of the Railway Board including Chief Commissioner and Financial Commissioner?

(d) Do Government propose to consider the claims of the Muslim community while filling the office of the Member, Staff Duties, when in future vacancy may occur?

**The Honourable Sir Joseph Bhole:** (a) Yes.

(b) Mr. Hayman is now on three months's leave preparatory to retirement.

(c) The Board is not constituted on a communal basis. At the present time there are two Europeans and one Indian on the Board.

(d) In filling this selection post the first consideration is efficiency, but other things being equal other factors will be given due weight.

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**RESOLUTION RE TRADE AGREEMENT SIGNED AT OTTAWA—  
contd.**

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Order, order. Before the debate on the Ottawa Agreement is resumed, the Chair wishes to point out that the Standing Orders lay down a certain procedure in regard to the discussion on Resolutions. That procedure is that each Honourable Member is entitled to speak on a Resolution for 15 minutes only; except the Mover and the Member-in-charge of the Department concerned. The Standing Orders further provide that an Honourable Member who has once spoken cannot speak again on that Resolution. When the Ottawa Agreement was before the House on the previous occasion, the Chair, recognizing the importance of the subject, did not restrict speakers to the time-limit of 15 minutes but allowed considerable latitude to Honourable Members to deal with the subject in full. In resuming discussion, certain difficulties arise. About 38 Honourable Members spoke on the Resolution and on the amendments moved thereon during

[Mr. President.]

the previous discussion. According to the Standing Orders, all of them have lost their right of addressing the House again. The House decided to refer the matter to a Committee, and that Committee has now reported to the House. On that Report, notice of further amendments has been received. The Chair proposes to lay down the following procedure. With your consent, the Chair will call upon Sir Hari Singh Gour to move the amendment of which notice has been given by three Honourable Members. When that amendment is before the House as well as the further amendments which appear on the order paper, the Chair proposes to allow the Honourable Members who spoke on the previous occasion to speak again but they will have to restrict themselves to the new matter introduced, namely, the Report of the Committee. Honourable Members who have not taken any part in this discussion will be allowed, as a special case, to speak a little longer than the 15 minutes time-limit. (Loud Applause.) Then, in regard to those Members of this House who were members of the Committee and who have not already spoken, will not be restricted exactly to fifteen minutes (Applause), but will be allowed a certain amount of latitude at the discretion of the Chair, provided always that they will restrict themselves to the new matter introduced by the Report. I take it that the House is agreeable to the procedure which the Chair proposes to adopt. (Loud Applause.)

**Sir Hari Singh Gour** (Central Provinces Hindi Divisions: Non-Muhammadan): Sir, I beg to move the following amendment that stands in my name:

"That after the words 'the 22nd September, 1932' the words 'and approving the Report of the Committee set up by this Assembly on the 10th November' be inserted, and that at the end of the Resolution the following be added:

'and further that he do give effect to the recommendations of the said Committee'."

Sir, as the time at my disposal is short, I shall very briefly state to the House what the Committee have decided on the subject of this Agreement. Honourable Members are aware that on the last occasion when we debated this Agreement, many of us expressed ourselves as being against the Agreement, and it was in consequence of that expression of opinion that the Honourable the Commerce Member acceded to our request to take the matter to a Committee of this House so that the Committee might have the chance of examining it in the light of such evidence as we might be able to take. Sir, we have been able to examine some witnesses but in spite of the extension of time that the House was able to give the Committee, we were not able to deal with the question with that exhaustiveness which the importance of the subject demanded. We should have very much liked, and I know some friends behind me would have liked, that this matter should not be hurried on, but the difficulty with which we were confronted is this. It takes two to make a contract, and it, therefore, takes two also to defer the ratification of the contract. We were assured that the matter was regarded by the other party to the contract as being of an important character and any further grant of time or postponement of ratification as out of the question. In that view, we were left with no alternative but to do the best that we could with the materials before us and the evidence of the witnesses we had summoned for examination. Of the many brochures written on the subject, a few

of them must be before Honourable Members, and we glanced through these as much as we possibly could and examined the authors of three of them, and the result that we found was that while a great deal can be said of both sides of the question, those who said that the Agreement was advantageous to India and those who said that the Agreement would be disadvantageous to India were both speculating and conjecturing and guessing. Let me now give to the Honourable Members the exact words of Professor Ghosh's evidence. The question was asked:

"Is there any other country which presents a parallel and which may furnish the data upon which we might be able to act?"

The answer was:

"No, Sir. I do not think there is any parallel; and even if there is any, the conditions before 1841 were so different from those obtaining today that any parallel existing will not be of much use to us."

Then to the question:

"Consequently it comes to this, that no precedent and no *a priori* facts can be found and everything has to depend upon conjecture and speculation?"

The answer was:

"To a large extent of course."

**Sardar Sant Singh** (West Punjab: Sikh): On a point of order, Sir. I ask the ruling of the Chair on this point. The evidence referred to has not been supplied to us. The gentlemen who have seen the report of the evidence may read only the portion thereof which is favourable to their views, while the other portion may remain undisclosed. May I know if an Honourable Member is entitled to read from the report of that evidence when the copies of evidence have not been supplied to us?

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The Chair's main object is to enable the House to give a considered judgment on all the facts that can be placed before them. The Chair proposes to allow all the Members of the Committee, those who have signed the majority report and those who have signed the minority report to give as much information to the House as possible in order that they may be able to reach a considered decision on this important subject.

**Sir Hari Singh Gour**: Sir, as I have said, it is not only in the recorded evidence of witnesses, but in the published books of which  
**12 Noon.** Honourable Members have been supplied a copy by their authors that this fact is admitted. It is a future contract; it is a contract which, according to the Agreement, will last for three years. As to what would be its effect during the next three years can only be a matter of speculation and to some extent of calculation. That is the position. Now, in these circumstances I ask Honourable Members one question. Here is an Agreement which has been offered in which it is conceded on both sides that India has something to gain. The quantum of gain is a matter of difference. Even the minority report has conceded that. The next point is: if we are of opinion that this is an Agreement upon which we are entitled to say that India has something to gain—and we do not know how much—and we further find that in the field of economy throughout the world India stands to lose if we lost the United Kingdom market, shall we or shall we not be justified in giving this Agreement a trial for



[Sir Hari Singh Gour.]

a period of three years. That is a short question before the House. Sir, even on the last occasion when we examined this Agreement, many of us expressed our views that upon the data furnished to us it was impossible to come to a conclusion as to whether this Agreement deserved to be ratified or repudiated. That position became unassailable as we entered the Committee, but when we examined the evidence and conferred with our colleagues, we were convinced that it is one of those Agreements in which it was to the advantage of India that it should be given a fair trial. Honourable Members will remember that we are not ratifying this Agreement for all time. Honourable Members will not forget that we have made safeguards from the beginning to the end giving the Legislative Assembly a complete and decisive control over this Agreement, a precedent which Members of this House will be able to appreciate.

Let me categorise in a few words what we have decided and what this Assembly is called upon to ratify. It is a temporary or provisional ratification for a period of three years at the maximum. And this preference is not to be a preference without any conditions. The conditions are, first, that our own tariff policy and our policy of discriminating protection to the indigenous industries of this country remains unaffected by this Agreement. Our first duty is to our country: our first duty is to see that our industries do not suffer and we have put this in the forefront and as a condition precedent to the ratification of this Agreement. Honourable Members will find that in paragraph 13 of the majority report, we have further provided that no additional burden should be placed upon the consumer or the tax-payer by the re-shuffling of the customs duties. That we have provided in paragraphs 14 and 16. We have further made a provision that the Government of India should keep a watch on the trend of prices, the course of business and to see how this Agreement in its working affects agriculture, trade and industry in this country. That we have provided in paragraph 15. And we have further provided that at the end of each year, the Government of India should draw up and publish for the information of this House an annual report supported by statistics which they will collect for the purpose. That we have provided in paragraph 17. Then we have instituted a Vigilance Committee of not more than 15 Members of this House whose duty would be to keep a watch upon the course of trade and examine the annual report, and we have further given them the express right of examining such representatives of agriculture, industry and commerce as they may consider necessary for the purpose of furthering the object which they have in view. I consider that a great gain, because the inquiries that we were unable to make for want of data will be collected while the Agreement is in operation. These data will be furnished to the Committee. The Committee will then examine witnesses and, after examining them, draw up a report and submit it to the Legislative Assembly. That Honourable Members will find is embodied in paragraph 19. And last, but not least, we have, for the first time in the history of constitutional development of this country, made the executive Government of India responsible to the popular Chamber in this matter. We have provided that if, at the end of three years, the Legislative Assembly decides that this Agreement should terminate, then the Government of India undertake and bind themselves to give a notice in accordance with Article 14 of the Agreement. I consider, Sir, all these safeguards

individually and collectively as entirely in the interests of India. We have a Committee and the annual report and we have returns submitted to the Legislative Assembly and last, but not least, we have a decisive vote of this House at the end of three years. I find that in the minority report signed by my friend, Sir Abdur Rahim, a reference is made to the fact that we have only provided for the vote of the Legislative Assembly under the present constitution. Honourable Members will find that at page 7. That no doubt, Sir, was in the original draft of which my Honourable friend seems to have got a copy, but as he did not take part in the most pregnant hours of later discussion, having retired to draw up his report, he was unable to see the final draft that we agreed to. That draft was, change of constitution or no change of constitution, this House or its successor which represents the popular voice shall have a decisive vote on the question whether we should or should not continue this Agreement on the expiry of three years. Of course it is a constitutional point, which every lawyer in this House will understand, that if the executive Government suffer from any constitutional disability which precludes their carrying out the Agreement into which they have entered, that is a situation which neither they nor we can foresee. But that apart, the executive Government bind themselves, whether there is a change of constitution or not and whether this Assembly remains as it is or becomes federal as contemplated, this Assembly and its successor will have the decisive voice and vote on the question of denouncing the Agreement on the expiry of three years.

Sir, I wish, therefore, to commend this amendment to the favourable attention of the House. I know that there has been a great deal of agitation in the country, influenced in what degree I know not by political considerations; and even when our friends, the economists, denounced this Agreement, I could discern their political prejudices in the background. Because, when they were faced with the realities of the situation, they were constrained to admit that they were not able to say on any data which they could adduce or upon any arguments which they could advance in the face of facts not existing or even probable, that this Agreement would be to the disadvantage of India. But the question is not merely whether the Agreement would be to the disadvantage of India. The question at the present moment is this; here is an Agreement: shall we give it a trial or not? And, in giving the trial, what do we stand to gain and what do we stand to lose? That is the narrow issue and it is upon that narrow issue that I invite the vote of this House. My friends have quoted the Professors and, as I have said, we have also had Mr. Sarkar, Mr. Vakil and Mr. Ghosh, and other Professors who have spoken on this subject. I have quoted the language of one of them, Mr. Ghosh, and, having done that, I think I am voicing the conclusions to which all the Professors of Economics have come and will come. Having done that, I am constrained to feel that there are many who must be in doubt at the present moment and who might be thinking that these Professors' *ipse dixit* count for much. But speaking for myself, parodying the words of the Persian tent-maker, I say:

Myself, no doubt, did eagerly frequent  
Vakil and Ghosh, and heard great argument,  
Theories galore, but evermore,  
Came out by the same door as in I went. (Laughter.)

Sir, I move.

**Mr. J. Ramsay Scott** (United Provinces: European): Sir, the constituency which I have the honour to represent has found itself in a quandary in regard to the important proposals now before the House. The majority of my constituents are engaged in industrial enterprise in the United Provinces; and their interests are in the main opposed to those of the large maritime constituencies which are mostly engaged in the importation of goods from abroad. My constituents have been, from the very beginning of the conferences instituted by His Majesty's Government and the Governments of the Dominions, heartily in favour of Empire Preference, or, to use a more modern rendering, Empire Reciprocity, which they feel is essential to the well-being of India and the Empire. They have been, however, perturbed over the method of presentation and lack of safeguards in so far as these safeguards relate to unprotected industries.

Personally I had hoped that Government would have recommended to the House the acceptance of the principle of Empire Reciprocity with a proviso that where similar goods are made in India any degree of preference granted to Empire products would be given by increasing existing duties against foreign imports and not by decreasing duties on products of the United Kingdom. Unfortunately Government have not seen fit to formulate their proposals on these lines, though to me the protection of India's industries against world competition seems not only a reasonable, but a natural and necessary corollary to the present stage of their development.

In the year 1922, the Fiscal Commission approved of the principle of Imperial Preference, provided that it did not interfere with the due protection of Indian industries, and it appears to me that Government have ignored this recommendation of the Commission. Government have before them an admirable example in the United Kingdom Import Duties Act of 1932 in which provision is made to protect not only established and nascent industries, but also, mark you, those which are likely to be established within a reasonable period. My constituents do not press for such far-reaching protection, but seek to safeguard only those industries which have to date been established in this country.

One other serious objection to the Bill is the manner of presentation. It has been rushed through and I submit, Sir, that insufficient time has been given to the industrial community to consider in detail how the proposed adjustment of import duties will affect their interests,—interests which are in point of numbers, in my opinion, most inadequately represented in this Assembly. It is at a time such as this, when important questions affecting the manufacturing industry are under discussion, that one realises how meagre this representation really is. To my mind it is a case of the Exchange Ratio over again. Without desiring to assume the mantle of a prophet, I predict that just as industries are slowly recovering from the havoc wrought when foreign manufacturers were presented with a bounty of 12½ per cent., as a result of enhancing the rupee exchange ratio, these proposals will administer the death blow to many struggling industries.

It cannot be denied that industries, which were on the point of collapse, have, like the famous Sick Man of Europe, lingered on for the last seven years, and today show slight signs of recovery as a result of the protection afforded by the present tariffs, which it is now proposed should be reduced.

I cannot refrain from complimenting the Members of the Ottawa Delegation on their shrewdness and business acumen in excluding from the operation of the principle of Empire preference those protected industries which I observe the Special Committee of this House describes as a noteworthy and desirable feature of the Agreement. It would appear that these strong and well-organised industries, which are able to exercise their power politically, are receiving preferential treatment. I do not object to this preference. I most strongly support it. But I hope that Government will not sacrifice on the altar of Empire preference those industries which have attempted to stand unaided on their own feet—industries. I maintain, which ought to receive every assistance from the Legislature of this country

The Committee itself complains of insufficient time to consider what, to India, is a proposal of the greatest magnitude. A few gentlemen representing certain interests have been examined only by invitation—other industries have not had an opportunity of presenting their case; but I do not propose to weary the House with an analysis of the report. It contains numerous weak points and expresses many pious hopes; but the essential point is that the Committee assert that only experience can prove what the actual benefits are likely to be. That I desire to emphasise and as forcibly as I can. To those of us who have an intimate knowledge of Indian industries no further experience is required to prove most conclusively that in regard to a number, at any rate, a reduction in the existing scale of duties will finally eliminate those concerns which may be described as *in articulo mortis* after years of struggle against dumping tactics and manipulated exchanges.

Sir, I maintain that co-operation between Government and industry is essential for the well-being of the country and, as examples of what can be done in this direction, let me instance the progress of German industries prior to the war, the advance of Japan during the last quarter of a century and the development in Italy in the last decade under the régime of the Fascists.

I should here like to draw attention to a leading article in the Delhi edition of the *Statesman* of the 29th November, with the headline "Ottawa and Cawnpore", in which an entirely false impression has been given of the attitude of the European community of Cawnpore. From the very first they have always said that they do not oppose the principle of the Resolution.

**An Honourable Member:** Who is the Editor?

**Mr. J. Ramsay Scott:** My constituents do not desire to be charged with a lack of patriotism, 5 per cent. patriotism if you like (Laughter) either as regards the land of their adoption or their mother country, nor do I wish to desert those Indian gentlemen who have supported the efforts to find a formula. which, while accepting the ideal of Empire preference, would at the same time safeguard the industries of India. As, however, the Special Committee have recognised the just claims of Indian industry in paragraphs 14, 15 and 16 of their Report, it is now clear that the door is not close tiled and that those industries which require special consideration will receive sympathetic treatment from Government. I shall, therefore, vote for the Resolution and urge those who are at the moment in opposition to Government to do likewise. (Cheers.)



**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Mr. Jog has given notice of an amendment: but he is not present. Notice of a further amendment has been given by Shaikh Sadiq Hasan: the Chair must rule it out of order, because it is indefinite. The rules applying to Resolutions must necessarily apply to amendments on Resolutions. Amendment, which are vague and indefinite as this is, cannot be allowed to be moved.

**Shaikh Sadiq Hasan** (East Central Punjab: Muhammadan): Sir, I have been asked by several of my friends whether this arrangement is going to benefit the carpet trade. To them my answer is that there is not the least doubt that it will help the cheap grade carpets, but whether it is going to help the higher class, is doubtful. As I am myself interested in that industry, I think I ought to lay my personal feelings aside and consider this question from the point of view of the country which is more momentous than one industry concerned. (Cheers from the Independent Party Benches.) In 1903, Lord Curzon's Government were definitely against this preferential arrangement . . . (*An Honourable Member*: "Thirty years ago.") Later on, the report of the Fiscal Commission was also of the same opinion. Of course with the change of times opinions also can change, and we have to see whether the conditions prevailing at the present time are such that we should accept this preferential arrangement or we should not. In the country there has been some cry against the personnel of the Delegation. The Delegation consisted mostly of Government servants, either in Government service or those who were in Government service and some Members from here who were nominated by the Government. But we have to judge from the results and not from the personnel. I would take up the question of exports first, where India gets preferential treatment. In the case of tea, I admit, it is going to benefit India; but as we all know tea is an industry which is mainly supplied by British money; and so the main benefit even in this case is going to the British people in England. . . .

**Mr. K. Ahmed** (Rajshahi Division: Muhammadan Rural): What about labour?

**Shaikh Sadiq Hasan**: They get two annas a day.

**Mr. K. Ahmed**: No, it is ten annas and more. But how much do you pay your men at the carpet factory? Three annas a day I suppose.

**Shaikh Sadiq Hasan**: I pay twelve annas to my men.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The Chair would like to bring to the notice of Honourable Members that this Resolution was discussed for four days on the first occasion and it is desirable that the House should reach a decision within reasonable time. The Chair wishes, therefore, to appeal to Honourable Members to abstain from interrupting speakers when they are addressing the House, as that unnecessarily prolongs the discussion.

**Shaikh Sadiq Hasan**: Now, the second important item in export is oil seeds. I would like to say that so far as linseed is concerned, it is going to benefit the trade; but, on the other hand, ground nuts are bound to be hurt, because the main consumer of ground nuts is France and not England.

The opinion of the Seeds Trade Association which should carry some weight is that the Agreement is injurious to their trade, because the United Kingdom purchases only 13 per cent. of our exports, whereas other countries buy 87 per cent. of our exports.

As regards cotton which, I may say, is the most important of our agricultural products of the Punjab, I would point out that England buys only four crores out of 65 crores worth of export, and Japan is our largest buyer, but we find that, as a result of this Agreement, Japan is now-a-days refusing to buy cotton in Lyallpur, and the result would be that as England would not consume the short staple cotton, there is bound to be a fall in the price of cotton to a large extent and, consequently, our agricultural interests in the Punjab would suffer considerably.

Now, let us take the case of Hides and Skins. There are quite a large number of commodities which we export, but I am only taking the case of most important ones. As regards hides and skins, the Majority Report says that hides and skins should be benefited, but there is a great market for hides and skins in Germany, and the United States of America buys skins to the extent of some crores every year. Is it possible that when there is discrimination against the United States of America and Germany, they will keep quiet? Already I suppose they must have made arrangements with countries like Argentina, and the result will be that there will be another fall in the price of these commodities. As I said, Sir, there is bound to be some benefit to some of these exports which we send to England, but at the same time we should be careful about retaliation by foreign countries. If we are going to make certain arrangements with England, there is no earthly reason why foreign countries should not make arrangements with other countries and thus benefit their country at our expense. There was a time when England used to buy large quantities of our goods, but now-a-days our trade with England is dwindling. We find that whereas England used to buy more than three-fourths of our commodities, they now buy goods to the extent of 33 per cent. only and the rest are bought by foreign countries. The question is this: is it safe, is it wise, to have only one customer instead of having so many customers? I might say that personally I have suffered in this matter. I had always got only one customer for years and years, whereas several of my friends who had more than one customer are getting on very well, because they had not two strings but three strings to their bow.

The second point is about the preference which is going to be given to English imports in this country. I can understand the point of view of the British Government in India, but what I cannot understand is the point of view of the elected Members of this House. (Laughter.) Honourable Members of the Treasury Benches are absolutely entitled even to agree blindly to whatever the British Government in England dictate, because, after all, they are the paid servants of the Government in England, and they are not our servants . . . .

**An Honourable Member:** They are paid by us.

**Shaikh Sadiq Hasan:** While the gentlemen who went to the Select Committee had not even sufficient time to study the whole question, as they themselves admit, and to find out what the effect of these preferential duties on the imports from England will be to India, and yet they say they approve of this Resolution. Surely I think something which concerns

[Shaikh Sadiq Hasan.]

our industry, and which affects our labour, is far more important than a few petty gains which we can expect from this export trade. In this case the question of millions of labourers is involved. I do not say for a minute that discrimination is not good for a country. I think discrimination is a very good thing for a country, because there is no earthly reason when a country like France gives preferential treatment to a country like Persia and treats our country in a hostile manner, why we should not treat France or pay France back in the same coin or in the same way any other country which discriminates between India and other countries? On the other hand, if there is a country like the United States of America which does not discriminate between India and other countries, and which is a big customer of India and which really cannot compete with India in Indian industries, there is no reason why we should discriminate against it. We surely do not care or should not care for the resentment of such discriminating countries if it is in the interests of India itself. On the other hand, if we are only discriminating in order to benefit the English manufacturer, certainly I would object to it.

Now, let us see if some of our industries, through this preferential treatment to English goods, are going to be worse off or are going to suffer. Take the case of the aluminium industry. I have received a pamphlet as so many other Members have, from the manufacturers of aluminium wares, and I find that they have raised a great objection, because preference is going to be given to aluminium in India, as they contend that English people and Canadians have got their factories in India, and if you are going to give preference to English aluminium, the result will be there will be a monopoly in the hands of English and Canadian firms, because when the supply of material is in their hands, they are bound to destroy the aluminium industry in India, and I think there is some force in this argument.

Now, take the case of woollen industry. I find from a private memorandum that we cannot afford to give preference even to the extent of 5 per. cent. to English goods and consequently woollen manufacturers think that they would suffer. These are the two industries which have protested, but I am positive that if full inquiry is made, if the Select Committee had the time to think of these problems, I am sure they would have found that many other industries are going to suffer by this preferential treatment.

There is one thing which I want to bring to the notice of the House, that preference is going to be given to a large number of manufactured goods, and many of these can be manufactured in India and which should be encouraged, if not for the development of indigenous industries, at least with a view to provide employment to millions of starving people in this country. One danger which I consider as something very serious is this, that preference to English goods would retard the industrial development of our country, and that Government would become indifferent in developing the indigenous industries. That is not a new thing. India was always a great industrial country. It was not only an agricultural country, but it used to export manufactured goods in the days of the great Moghuls, east and west. (*An Honourable Member*: "Even before that.") My Honourable friend says, even before that. I say, yes, even before that, because Indian cotton goods used to be sent to Egypt even in 500 B.C. In the days of the Moghuls, there was a great

shipping industry. In the days of the Moghuls, manufactured goods were exported. What I want to say is that India was not only an agricultural country, but she was also an industrial country. While great regard should be paid to the agriculture of the country, its industrial side should not be forgotten, and it is only in that way that you can make the starving peasantry of India get some employment and the congestion in the villages would be relieved. There is another consideration, that is the effect on the consumer. While we are thinking of the advantages or disadvantages of these exports and imports, we should not also forget what effect this preferential treatment will have on the consumer. I am afraid he will have to pay more price. If he pays more price to develop the industries of our own country, there should be no objection, because in that case it would give employment to him and his kith and kin, and what he had paid in the shape of higher prices would come back to him in another direction. On the other hand, if it is only going to give help to the English manufacturer, it is not right and fair to put an extra burden on the consumer. Are we going to give more employment to Indians by this Agreement? If we could give more employment to Indians by this arrangement, then certainly it should be accepted. But, as I have already pointed out, if we accept this arrangement, it would retard the industries of the country, and, therefore, it is not going to give more employment, and on that ground also this arrangement fails. As my time is over . . . .

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Please conclude as early as possible.

**Shaikh Sadiq Hasan:** My main argument is that India is a self-sufficing country. India is an economic unity. India produces raw materials of all kinds. India has got coal, she has got iron, our one idea should be, not so much towards preference, as to industrialise the whole country. We should try to develop, and Government should help,—which I doubt,—the industrialisation of our country. While Government are spending crores and crores on various items, they are doing absolutely nothing for those millions of people who are starving in the country, who have not enough to eat. I had a talk with the Honourable Minister in charge of Local Self-Government, Punjab, who happens to be the Minister in charge of Industries as well, and he was also complaining that the Government were starving the Department and would not give them large sums of money.

**An Honourable Member:** Which province?

**Shaikh Sadiq Hasan:** Of the Punjab.

**Mr. S. C. Mitra** (Chittagong and Rajshahi Divisions: Non-Muhamadan Rural): Of every province.

**Shaikh Sadiq Hasan:** I do not know about the other provinces; I only know of the Punjab. I shall just sum up what I have got to say. So far as our exports are concerned, I think we are not going to benefit, because there is only going to be a diversion of trade. As for imports, some of our industries are actually going to suffer, and the others are going to be retarded on account of this arrangement. The consumer will



[Shaikh Sadiq Hasan.]

have to pay a high price, not for the benefit of his own countrymen, but for the benefit of the English people. Besides that, we are not going to give more employment to our people by this arrangement. I, therefore, submit that the arrangement is one-sided, and our hands are tied up and we shall always have to keep the British Government in good humour if we accept this Agreement.

**Raja Bahadur G. Krishnamachariar** (Tanjore *cum* Trichinopoly: Non-Muhammadan Rural): I am not an economist, nor can I pretend that I have read the subject in a manner that I could deal with it to any very great or useful purpose before this Assembly, but, Sir, I feel so strongly upon the matter that in spite of my ill-health, in spite of the doctor's advice, I have come all the way here to record my protest as strongly as possible against this Agreement, and that is why I have stood up to speak.

There is a saying in English which runs: "Heads I win, tails you lose". This Agreement is an example of that saying, but put in nicely worded language, first, by the original long printed document, and next, by the Majority Report of the Committee of this Assembly. Between them it is, however, hopeless to find out any reasoned argument to convince the man in the street like myself that this Agreement is going to help either the industrialist or the agriculturist, or any portion of the community except the British Government 6,000 miles away, who, it will be noted, have very nicely complimented our representatives for having made a present of, I believe, £18 millions just at a time when they are having trouble over their trade depression. Sir, I entirely agree with the Honourable Member who has just sat down, that in the olden days, India was as much an industrial as an agricultural country. Our industries were mercilessly crushed. It is a long story, it is a painful story, and I do not know if I shall not be justified in saying, it is also a shameful story. That story has been succinctly recorded in the dissenting minute of our venerable leader, Pandit Madan Mohan Malaviya, and, whoever is interested in that past history, may refer to the Report of the Indian Industrial Commission in which the dissenting minute of the Pandit brings the story down to the year 1918. At that time it paid Great Britain to be a free trade country and everything that would go to militate against that principle has been crushed with an iron hand, crushed with merciless cruelty, even to the extent that the thumbs of the Bengal workers had been cut so that they might not compete with the manufactures of England.

**An Honourable Member:** It is not correct.

**Raja Bahadur G. Krishnamachariar:** I am sorry if I am making an incorrect statement, but whoever doubts it can look at the history of the thing and, if necessary, later in the day I can produce my authority.

**An Honourable Member:** They cut the thumbs themselves.

**Raja Bahadur G. Krishnamachariar:** Well, about that, I can give you a little bit of a story even in recent times. It is a story which always

repeats itself and which will never die. It is this. Ten years ago, there was a drought in my part of the country and we were not able to cultivate our lands. We sent a petition to the Collector asking for remission. The Collector was a fine man. He sent for me and made me sit down and, after five minutes talk, he told me: "Mr. Krishnamachari, I cannot give you any remission". I asked him, why. He said: "Because, you would not cultivate your land simply to obtain remission". His reason was that in order to escape paying out one-third of the value of my produce, I would not take the other, but cussedly lose the other two-thirds. That is the sort of mentality which I thought ruled only one portion of the community and I find that there is also another portion of the community which supports that mentality. However that is neither here nor there. So England established her industries in that way. They were on the top of everything. Free trade worked beautifully well. Unfortunately the war came. England got into trouble. We do not gloat over it. We did help England in the war. England found herself in difficulty for no fault of hers. She tried all sorts of remedies. Eventually she came back to the old theory of Joseph Chamberlain, that is protection. Now, what has happened? England was a free trade country and now she being in trouble changes into a protectionist country and she says: "You agree or we will impose a ten per cent. duty on all the imports from India".

**Mr. Arthur Moore** (Bengal: European): India has been a protectionist country for ten years.

**Raja Bahadur G. Krishnamachariar**: It is what they call discriminating protection. Certain conditions were attached. I should be very sorry to discuss that question now, because my time will be up if I take up that irrelevant discussion now. That is the reason why I do not want to discuss it now. Our delegates who were sent from here were all patted on the back. Great big speeches were delivered and, at the conclusion of the Agreement, they were hailed as statesmen. What is the result? England has got what she wanted at the point of the bayonet,—that is they said "Do you or do you not agree to this? If you do not, we will impose this ten per cent. duty on your imports from the 15th November. There is not much time. You must make up your mind now". I am not drawing upon my imagination. I would respectfully invite the attention of this House to the report that has been placed in our hands some time ago where it says that the position we were faced with is not what India stood to gain, but what India would lose by means of this ten per cent. duty if allowed to be imposed. That is the condition under which this Agreement was made. I am very glad that this Honourable House agreed to the appointment of this Committee though, being my colleagues, I do not want to say much against the personnel. It would, however, have been much better if that Committee had been officially connected with some expert who could give them advice. My Honourable friend, Sir Hari Singh Gour, pooh-poohed the opinion of experts. He put his own knowledge as a lawyer over the practical every day experience of these people who came to represent big commercial institutions and he said they are of no use. Sir, my authority for requesting this House to reject this Agreement is the very report of the Majority of the Committee of which Sir Hari Singh Gour spoke most eloquent. I would just ask this Honourable House to bear with me for a few minutes when I run through these

[Raja Bahadur G. Krishnamachariar.]

clauses and the House will see that I am perfectly justified in my position that this Agreement deserves to be rejected on the authority of that Report. Leaving the introductory portion aside for the present, this is what they say:

"We wish to add that the time allotted to the Committee for its work has been insufficient for a full examination of that part of the Agreement which relates to the preferences given on imports into India."

I am not quite sure whether I am able to follow this, but I suppose it means that they were not able to find out what is the benefit or the loss on the above head, so that they may arrive at a conclusion. Now, Sir, what is the use of this Agreement at all. They then proceed to deal with commodities on which India will receive preference in the United Kingdom and they say this:

"In regard to the preferences on certain commodities, while recognising a possibility that some advantage may accrue from them, the importance which is attached to the value of those preferences should not be exaggerated."

Then, Sir, five articles have been taken away, with this remark that it is not so valuable and, therefore, do not over-exaggerate the benefit that we would get. Then, with regard to five other commodities, they say this: Wheat: Preference on this article is not of immediate value, but we are assured by members of the Committee closely associated with agricultural interests that the inclusion of India within the scope of the preference would be of great benefit. I am only paraphrasing what they say. I do not want to read the Report. I should very much like to ask who were the members of the Committee who were closely associated with agricultural interests who gave that advice. I read the names of the members of the Committee. They are Sir Joseph Bhore, Sir Hari Singh Gour, Mr. Yamin Khan who, I suppose, is connected with agriculture, but I can't say if it is with wheat, Sir Alan Parsons, Mr. Ranga Iyer, Mr. Mody, then Mr. James, then my friend Mr. DeSouza, Haji Abdoola Haroon, Dr. Ziauddin Ahmad, and Sir Zulfikar Ali Khan and Mr. Shanmukham Chetty. Now, Sir, I ask—I am not asking out of any affectation—but

1 P.M. I want to know, as a matter of information, from this Committee who sat down and solemnly wrote this report: "Who were those members of the Committee closely associated with agriculture who gave their opinion that this Wheat Agreement should be upheld even if they found on examination that it was not going to be of any immediate benefit?" Then, with regard to coconut oil, you will be surprised, Sir, to note the way in which the whole thing has been worked out, how even with sufficient time at their disposal and even with a lack of the fullest material, the whole thing crumbled like a house of cards. With regard to coconut oil, this is the position that confronted them. In their Explanatory Note, the Committee say:

"While this explanation would appear to substantiate a conclusion that the preference under consideration would not enable India to enlarge her market in the United Kingdom for coconut oil, we realise that it is necessary to treat the vegetable non-essential oils as a group, in order to arrive at a correct appreciation of the position."

I ask, why? Each article is individually mentioned in this Trade Agreement and I take it that whoever worked up these results and whoever came to this conclusion thought that every item mentioned was going to produce some sort of benefit to India. Sir, one of the important items

is coconut oil, and, with regard to that, our Committee says that there is no chance of the export increasing, yet, "mix it with something and find out whether there is going to be anything good or bad". Sir, in the olden days when we were in the playground, we used to say to our fellow boys: "you bring the rice and we bring the chaff, and we shall mix them, and then we shall eat it after separating the chaff from the rice". Now, they say, "coconut oil" will not be benefited. Therefore, "mix it with something else just to find out the result". Why? (*A Voice*: "Cocogem.") Sir, is it to justify the Agreement that has already been entered into? Why do you want to do it? Sir, that is the position with regard to coconut oil. Then, with regard to linseed . . . .

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Order, order. The Honourable Member has already had fifteen minutes, and the Chair wishes him to conclude within five minutes more.

**Raja Bahadur G. Krishnamachariar**: Very well, Sir, with regard to linseed, I was talking to a friend the other day and he said that linseed was a very important item. Now, this is what the Committee says, in effect: "Do not think you can dislocate the Argentine from its position with regard to linseed, and, so far as we can see, there is not much prospect of our being benefited by it", but without counting their host they go on mixing it all together. Now, so far as rice is concerned, its immediate value is negligible, but they say, "the potential value is great". Well, I shall leave the other small items as I am almost out of time. Then there is one gem which ought not to be lost sight of, and that is coffee mentioned in paragraph 4. Now the Committee have a very nice way of working it out. They take the rule of three, and they apply the ten per cent. duty to exports from foreign countries and they say, so much will be kept out, our share at present is two million and it will be three million more, so they add up two and three and arrive at five million, and so they say we are going to be benefited. (*A Voice*: "Nice arithmetic.") Sir, this is the first time in my life—and I have lived fairly long in this world—that I am told that economic events follow the rule of three. There is only one other item I would touch and that is the tea market. Now, tea is the largest article of export from India to the United Kingdom. It is a rather interesting fact that the conclusion of the Committee is that after all it is not going to be benefited very much, and their remarks about jute surpass everything else, and yet my friend, Sir Hari Singh Gour, asks this House solemnly to accept this Agreement and try the experiment. Sir, during the Currency Commission, we have had a trial of the two shillings and odd increase, and my friend over there, Mr. Ramsay Scott, just now denounced the present 1s. 6d. ratio. Now, time after time, it is the Indian people that have got to be experimented upon by persons who are absolutely unconcerned and ignorant so far as the poor people are concerned and who have no real stake in the country. I am very sorry, there is not much time, at my disposal, otherwise I should be able to show that in respect of commodity after commodity we are not going to be in any way benefited by this Agreement (Hear, hear), and I, therefore, very respectfully and very humbly ask this House to reject this Agreement completely and not to ratify it at all.

**Pandit Satyendra Nath Sen** (Presidency Division: Non-Muhammadan Rural): Sir, I have the misfortune of being called a Pandit and not only a Pandit but an orthodox Pandit. Sir, as such, I am dead against

[Pandit Satyendra Nath Sen.]

speculation, especially when that speculation smacks of an unholy character. Sir, this Agreement is a speculation, because it asks us to leap blindly in the dark, as has been admitted this morning by my Honourable friend, Sir Hari Singh Gour. Sir, this Agreement is unholy, because it takes its stand not on merit but on artificial means. Sir, the subject was discussed at some length by economic giants and no unanimous decision could be arrived at. The "majority" members say that they have not been able to examine fully the subject of imports into India, but still they support the Agreement. The "minority" members, on the other hand, with almost unanimous public opinion at their back, oppose the Agreement. Sir, in this state of indecision, I am naturally induced to seek advice from my old savants who say that in matters of doubt, do not introduce an innovation. Sir, this is not my only ground; I have other grounds too. The British Government are playing with us in respect of the grant of self-Government. We do not know when they are going to grant us that privilege. And if they do not, what will be our position? We will have to launch upon the boycott movement, as we did some years ago. Why should we bind our hands and feet to the British Government and displease other countries? Why should we put new shackles on our body at this critical juncture? Sir, my third ground is that this Agreement will hamper the Swadeshi movement. Foreign articles, with the help of these concessions, will dump our market and our Swadeshi products will not be in a position to compete with them. It may be that these foreign articles will be a bit cheaper, but to encourage indigenous products even at a sacrifice is a part of our Swadeshi cult. We had many industries in India. We have already lost many of them, such as the sugar industry and the cloth industry to which reference was made by Raja Bahadur Krishnamachari and we cannot afford to lose more.

Sir, my next ground is the ground of self-respect. I am not in a mood to cultivate an extra amount of intimacy with the Colonies. What is our position there? Every country enjoys the fullest rights and privileges in India, but when we go to those countries what is our position there? We are always accorded a differential treatment. Sir, is reciprocity possible under these conditions? True reciprocity is possible only amongst equals. It may be argued that the United Kingdom and the other Colonies may retaliate on us if we do not ratify this Agreement. My reply to that is that they cannot, because on the whole it is the equality and the cheapness combined that will ultimately count and these two things will count in spite of this Agreement. Even if they retaliate, we can also retaliate in return in many matters such as iron and steel, jute, tea, etc. Sir, even if they retaliate, thousands of doors will be open to us. The world is much bigger than the United Kingdom and the Colonies. And what does this Agreement really mean? It is nothing more than a diversion of business which may also lead to a dislocation of trade at least for some time to come during which period we poor people will be crushed to death. Sir, it may be argued that the results of this Agreement are uncertain. I am prepared not to attribute any dishonest motive to England. It may further be argued that if they are prepared to take some risk, why should we not be prepared to take that amount of risk as well? My reply to this argument is that they are rich people; they can afford to make an experiment. We are poor people and we cannot afford to make such a ruinous experiment.

Sir, the amendment of Mr. Raju seeks to refer the matter to the Tariff Board. I do not have much faith in that body especially when the interests of England are in question. I would, therefore, support Mr. B. Das' amendment and oppose the Resolution and the amendment that is just proposed. Before I resume my seat, I will inform the House of one thing that strikes me. Amongst the Hindu sacred books, there is a work named the "Bhavishya Purana" which narrates the things which will occur in the future. In this Purana I have come across a statement which says the following in reference to foreign rulers:

*"Te praja bhakshayi shyanti arthato na sarivatah."*

The meaning is that the future foreign rulers will eat into the vitals of their subjects, not physically, but economically. I think that statement has come to be too true. They want some preference. By the linking of the Indian coin to the sterling which has now very much depreciated, I understand they are already enjoying a preference of about 40 per cent. What more do they expect from us and what more can we give them? We are already on the verge of ruin and we cannot afford to ratify this ruinous Agreement. With these words, Sir, I oppose the Resolution.

The Assembly then adjourned for Lunch till Half Past Two of the Clock.

The Assembly re-assembled after Lunch at Half Past Two of the Clock, Mr. President (The Honourable Sir Ibrahim Rahimtoola) in the Chair.

**Mr. B. C. Burt** (Government of India: Nominated Official): Sir, I should like to correct a statement which was made by the last speaker this morning when he said that the Indian Delegation made the Ottawa Agreement because they were threatened with 10 per cent. Now, Sir, that is an entirely wrong way of putting it. Great Britain put on a 10 per cent. duty on all imports as a revenue measure and as a means of adjusting the trade balance. In India also, Sir, we have in two stages put an extra 10 per cent. duty on our imports, and, in doing so, we gave no country any opportunity for negotiation. We said that it was necessary and we did it, and no one said anything about a loaded pistol or a threat. But, Sir, because the Dominions had for some years urged that Great Britain should adopt a policy of Imperial Preference, the United Kingdom gave an opportunity to the rest of the Empire to secure continued free entry by the method of trade agreements; and so as not to prejudice the conference which was to take place at Ottawa, she continued to provide free entry without agreement until the Ottawa decisions were arrived at. I submit, Sir, that far from being a threat there could have been no more generous way of treating the rest of the Empire.

Now, Sir, I also would like to correct a small mistake which was made relating to coconut oil, and I only deal with these details, because the preference on vegetable oils is one which I consider very important, and one on which the Majority Report lays emphasis. The speaker referred to the paragraph dealing with coconut oil, but he omitted to read the last sentence of that paragraph which explains the whole reason why

[Mr. B. C. Burt.]

coconut oil was included in the preferences. That sentence reads as follows:

"A duty of 15 per cent. *ad valorem* on coconut oil imported into the United Kingdom from non-Empire countries, with free entry for Indian oil, apart from any effect which it may have on the Indian export trade in that commodity, is necessary to render effective the important preference on groundnut oil, rape oil and sesamum oil."

Without a duty of 15 per cent. on foreign coconut oil in the United Kingdom, our other preferences would be discounted.

Now, Sir, I should like to turn to the agricultural side of the Agreement, and I should like to say at once that I am in no doubt as to the value of this Agreement to the Indian agriculturist. And, Sir, I speak as an agriculturist. We have secured preferences on wheat, rice, vegetable oils, linseed, tea, coffee, tobacco, castor seed and groundnuts. On all these articles the majority of the Committee, after full consideration, decided that the preferences were of value. Some they decided to be more valuable than others, but they found them all to be of value. Moreover, we have the undertaking that His Majesty's Government in the United Kingdom will definitely support efforts to increase the use of Indian cotton in England. Further, by virtue of Article I, we not only retain the privilege of free entry for all our produce, but we get a number of unscheduled preferences on such items as barley, pulses and others too numerous to mention.

Sir, it has been said that India will not be able to take advantage of these preferences, because she cannot increase her production and that diversion will be the only result. The Minority Committee's report says:

"In the case of raw products generally the possibilities of expansion, having regard to the actual conditions of Indian agriculture, are more than doubtful."

They also say further:

"We have to bear in mind that it must take time for Indian agriculturists generally to be able to respond to any increased demand."

Now, Sir, I submit that exactly the opposite is the case. We need, immediately, larger markets in the United Kingdom to take the place of the reduced purchase of our products by non-Empire countries. Sir, Indian agriculture has its own difficulties, but it also has certain special advantages and not the least of these is the elasticity of our agricultural rotations. I will not weary the House with a technical description of the reason, but it is largely because we have advantages in both soil and climate. I am certain that there is no country in the world where the area under a particular money-crop can be varied so quickly to meet changes in demand, as in India. To give an example showing the truth of that statement, I will refer to cotton. In 1920-21, the cotton area in India was 21 million acres and it was the same in 1922-23. It then ran up to 28 million acres by 1925-26. Why? In response to increased demand. In 1928-29, the area was 27 million acres. Then the demand fell off, and cotton area decreased to 23 million acres in 1930-31 and to 23½ million acres in 1931-32. Take again the jute crops. As a result of increasing demand, the jute area increased from 28 lakhs of acres in 1923 to 34 lakhs of acres in 1929 and 35 lakhs in 1930. In 1931, there was an immediate fall to 18½ lakhs, that is, a fall of 46 per cent, consequent on the slump in prices and the falling off in demand. And yet,

such is the elasticity of our cropping that the whole of that area was transferred to other crops, and the official records show that the total cropped area in Bengal did not vary appreciably. Sir, I may take one more instance, a crop which has made very great strides during the last ten years and on which we have now secured a valuable preference, the groundnut crop. The area under groundnuts in 1921-22 was two million acres and we produced less than a million tons. In 1930-31, the area was 6,366,000 acres and we produced over three million tons. That, Sir, was in response to increasing demand. These examples show that the Indian cultivator is neither unable nor unwilling to take advantage of new markets if they are offered to him.

Now, Sir, it may be said that, however profitable it may be, this is only a diversion from one crop to another. Our critics are rather fond of that term "diversion". Sir, we have in India a large area of what is called culturable waste. I will not dwell on that point, because Dr. Ziauddin Ahmad has dealt with it in his note. But I would remind the House of another and much more immediate reserve of land for cultivation which we have in what is known as the area in current fallows. That area in India is just over 49 million acres as compared to our total cultivated area of 228 million acres, and everyone knows that a fallow of a whole year is not a normal characteristic of Indian agriculture. If we leave out Sind and one or two other areas where irrigation facilities form the limiting factors, the "current fallows" area represents almost entirely land which could quickly and immediately be brought into cultivation with increasing demand. We had an instance during the war. During the war the area under current fallows fell from just under 50 million acres to 45½ million in a period of three years. Then, Sir, we have the double cropped area. It is another advantage of the Indian system of agriculture that much of our land can be cropped twice a year and the double cropped area is an indication of intensive cropping. During the last five years that area has gone up from 30 to 34 million acres and during the war there was an improvement of two million acres in one province alone. In the United Provinces where the average was 8 million acres before the war, there was an increase during the war to over 10 million acres of double cropped land. To pass on to other great reserves for expansion, there is the new irrigated area. In the ten years ending 1929-30 the canal irrigated area in India rose from 26 to 30 million acres bringing the total irrigated area to 61 million acres. I give these figures to emphasise the importance of the figure which I will now quote. The new schemes now coming into operation including the Sukkur Barrage, the Sarda canals and the Sutlej Valley canals and various important schemes in South India will altogether mean an increase of over 12 million acres in our irrigated area. There has been no such important addition to our irrigated area since the beginning of the century and I contend that an additional outlet for our produce is a primary essential. Let there be no mistake about this point: the Indian agriculturist can and will produce the crops and take advantage of any new outlets that this Agreement will give him.

Now, I would like to deal very very briefly indeed with one or two important errors in the Minority Reports. In regard to castor seed, I notice that a claim is made that India here has a complete monopoly: the actual words are:

"We have here a monopolistic position as all the imports are from India. We have no Empire competitors or any other competitor." . . .



**Mr. B. Sitaramaraju** (Ganjam *cum* Vizagapatam: Non-Muhammadian Rural): If I may interrupt the Honourable Member, that is only based on the information supplied to us by the Government. If he will turn to page 40 of the notes of figures supplied to us, he will find this statement made—"practically all of which went from India".

**Mr. F. E. James** (Madras: European): Is that the export book?

**Mr. B. Sitaramaraju**: This is the Notes on India's Exports supplied to the Indian Delegation.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member's fifteen minutes are running out: please do not interrupt.

**Mr. B. C. Burt**: I would add one piece of information to that which has just been quoted, namely, that in 1929 the United Kingdom imported 15 per cent. of her castor seed from foreign countries, but in 1930 she imported 45 per cent. from non-Empire sources . . . .

**Mr. B. Sitaramaraju**: May I ask a question?

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Order, order.

**Mr. B. C. Burt**: I am quoting from the Trade Returns of the United Kingdom. Now we turn to linseed; and with a few remarks here I will close. The Minority Report says that they have no information as to the quality of Indian linseed. May I quote what was said about Indian linseed by the Royal Commission on Indian Agriculture which reported in 1928? After an inquiry in England as to the relative position of Indian oilseeds, the Commission said: "Indian linseed is preferred to that of any other country"; I may add that Indian linseed always commands a premium over Argentine linseed in the London market.

**Mr. B. Sitaramaraju**: Sir, if every Honourable gentleman is as broad-minded as my Honourable friend, Mr. Sadiq Hasan, we would not be discussing this amendment of Sir Hari Singh Gour today. The Honourable the leader of the Nationalist Party in bringing this amendment stated that he brought about a constitutional revolution on the sly, securing the executive responsible to the Legislature. I think according to his own showing he has made out a case for the return of the Round Table Conference wallas. This constitutional pandit has achieved what several of our countrymen have failed to secure, in spite of their efforts during the last two or three years. I would like to deal very briefly with some points that have been raised in moving the amendment by the Honourable the leader of the Nationalist Party. He has said that he was not able to examine the Agreement exhaustively during the proceedings of the Committee; and in fact both the Majority Report as well as the separate note that was submitted by him would disclose the fact that the import side of the Agreement has not been examined. One would consider in a Trade Agreement that on the import side we give all that this country has to give and receive all that this country can receive on the export side. If Honourable Members come and say seriously that they have not examined that part of the Agreement which only would constitute the obligations

payable by this country, I would consider a great mistake has been made in stating that they have intensively examined the Agreement. There are also other points that he raised. He said that for want of sufficient time they wanted this Agreement to have a three years' trial. I said at the earliest part of this debate that this was a Trade Agreement, not a fancy dress ball. We cannot get out of an Agreement at our will and pleasure. After three years it is impossible to restore the very conditions under which we are now existing, because trade would be dislocated, finances will be upset, new interests will be created and it is absurd to say that we will have the same conditions three years hence as what we are having today. Then he made reference to Article 14 of the Agreement and if you will permit me, Sir, I will briefly refer to that Article a little later. But he also said that we should take care to see that the consumer and the taxpayer are not hit. So far as the consumer is concerned, he made reference to paragraph 15. Sir, in paragraph 15, you will be pleased to see that my Honourable friend, along with the other Members of the Majority, says this:

"We regard it as impossible to predict generally upon whom the cost of preference will fall. Experience has shown that in many cases the whole of the cost falls upon the producer. . . ."

My friend referred to paragraph 16 also of his Report. Paragraph 16 does not contain anything about the burden on the consumer . . . .

**Sir Hari Singh Gour:** I referred to paragraphs 14 and 16.

**Mr. B. Sitaramaraju:** I will read paragraph 14 also if you wish. This is what is stated in paragraph 14 here:

"On a careful consideration of the import schedule, we find that articles of the same kind as certain of those included in the preferential list are also produced by Indian industries which, though not protected by an Act of the Legislature, have been started or developed behind the shelter of the revenue tariff."

This paragraph 14 has no reference at all to the burden on the consumer. It deals with the protective industries. As I said a few minutes ago, I shall deal with that part of the subject when I deal with Article 14. So far as the burden on the consumer is concerned, there is nothing in the Majority Report to show that the burden on the consumer has been safeguarded. On the other hand, there is a clear admission in paragraph 15 that they do not know exactly on whom the burden of the preference will fall. On the other hand, there is another paragraph in the Majority Report where they state that this is a matter which should be left to the Select Committee. This is what they say in paragraph 15:

".....if preference is given by raising the duty, the initial tendency may be towards a raising of the price level, and this aspect of the question is one which will doubtless receive full consideration at the hands of the Select Committee on the Tariff Bill."

Then, as regards the question of the burden on the taxpayer, they rely upon a statement made by the Honourable the Finance Member that the duties will be so arranged as not to increase the burden on the taxpayer. This is here:

"At the same time we have been assured—and it is a point to which we attach considerable importance—that the tariff changes proposed have not been so designed as to increase the revenue from customs as a whole."

The meaning of this passage is only this, that the Government of India do not want any more customs revenue than they are getting now.

[Mr. B. Sitaramaraju.]

And the third point which my friend made about Article 14 is that great advantage that would accrue to our industries. I would like to invite the attention of the House, particularly to the terms under which Article 14 of the Agreement has been drafted:

"This Agreement between His Majesty's Government in the United Kingdom and the Government of India shall continue in force until a date six months after notice of denunciation has been given by either party.

Provided—*(the proviso is very important)*—that in the event of circumstances arising which, in the opinion of either party, necessitate a change in the rates of duty or margins of preference settled by the agreement on any particular description of goods that party shall notify and consult with the other party with a view to adjustments being agreed upon. If no agreement is reached within six months of the date of such notice it shall then be open to the original party to give to the other party six months' notice of his intention to carry into effect the change desired in the rate of duty or margin of preference on goods of the description named in the original notice and to bring the revised rate or rates into operation at the expiration of this period."

Now, I would like to ask how under the terms of this Article that interpretation, namely, products of industries and new industries are within its scope, is sought to be put. The Honourable gentleman who made the statement and also the Honourable gentleman who made the statement in the Majority Report have laid stress on paragraph 39 of the Delegation Report where the scope of this Article 14 has been given. But, I submit, Sir, when we come to consider an Article on its merits, when we consider the actual wording and the possible interpretation that any reasonable man can put on it, change of rates of duty and margin of preference settled by the Agreement is only contemplated. Products of industries as interpreted in paragraph 39 of the Delegation Report are not covered. The Majority Report goes further and states that under Article 14 they can bring in new industries.

A point has been made by our Delegation as well as in the Majority Report that our primary concern is that of the raw produce in this country and our chief interest ought to be centred on our agricultural interests. I daresay that agricultural interests are very important, but industrial interests are as much important as agricultural interests. I will read from a Government publication the following:

"India holds undisputed rank among the great industrial countries of the world, and the memorandum sent from the India Office to the Secretary General of the League of Nations in 1921 stating India's claim to be regarded as one of the 8 States, e.g., chief industrial importance in the world stands the grounds on which the claim is based.

She possesses important and flourishing jute, cotton, iron, steel mills and foundries of all sorts, dockyards, paper mills, match factories, and so on.

1921 census showed 16 million persons were engaged in industrial pursuits in India.

In 1927 manufactured articles exported from India reached 853 millions of rupees (64 million sterling). She has a virtual monopoly for some of her productions."

That is a statement taken from one of our Government publications.

**An Honourable Member:** It suited their purpose then.

**Mr. B. Sitaramaraju:** As my friend, Mr. Sadiq Hasan, has remarked, India can always be an economic unit in itself. It is both an industrial as well as an agricultural country, and if industries do not flourish as they ought to in this country, it is not due to any fault of ours, but is due to other causes. However, so far as the import side of this Agreement

is concerned. and the consequence of preferences in it, the Majority have not taken the care required for that purpose, and throughout the proceedings we have been hurried and hurried, and our admission that we have not been able to examine the question fully and exhaustively shows that we have not made a proper examination of the Agreement itself.

Sir, the Majority Report has dealt with the export side, and just now my friend, Mr. Burt, has also placed some emphasis on that aspect of it. I would like to make only a brief reference to it. So far as the exports are concerned, preferences on commodities like magnesium chloride, cotton, yarn, etc., the Majority themselves admit that the preference is not of much value. As regards oils and oil-seeds, my friend, the Raja Bahadur, has already dealt with it, but I would like to add to his remarks one little passage from the report of the President of the Oil Seeds Association, Madras. He states as follows:

"Much has been said about the benefit to the oil seeds business by the proposed Agreements, especially groundnut business. As one, knowing the details of the trade in all its aspects, and conversant with it for over quarter of a century, I would at once state that any Imperial Conference will spell disaster to the oil seeds trade and the producer. Britain, far from being helpful to us, has always been niggardly in the treatment of this article. It is only when the competition of Germany and France comes in, we really get any good prices, and of late there has grown up in England a system of Buying Combines which practically eliminates all competition and commands the market for this article at their sweet will and pleasure. In fact, Mr. Lindsay, the late Trade Commissioner, has drawn attention, in one of his public reports, to the danger to which our export articles are subjected to in Britain by means of these combines; and it is, therefore, no good depending on British preferences, so called, to develop our trade in this article. After all, a very small percentage of the total exports goes to England, and we have to find markets elsewhere if we really want to develop our business."

Sir, we have dealt with vegetable oils in our Minority Report, and I would like to draw the attention of the House to schedule B which we attached to our Report. We stated how unimportant the market of the United Kingdom was so far as these oils were concerned.

If Honourable Members will turn to Table B of the Minority Report, column 2, they will find that so far as sesamum oil is concerned, England takes nothing, and so far as groundnut oil is concerned, in 1920-21 she took 26,000 gallons as against 118,000 gallons taken by all other countries, and in all the other years from 1921 to 1931 there has been no intake by the United Kingdom at all. Take linseed oil. There the United Kingdom has taken very little, while other countries took a lot. The same is the case with rapeseed oil. These are figures supplied to us by the Government, there can be no inaccuracy. These figures will show that so far as the United Kingdom is concerned, our trade is very small indeed. In the Majority Report, on page 4, they have given some figures in value. I want to draw the attention of Honourable Members to column 2 of the table therein. The column says: "Total value of trade held by India in the United Kingdom *plus the potential additional market in that country*". It says, "plus the potential additional market". (Laughter.) So Honourable Members must bear in mind that these are *not actual figures*. While they have given the actual figures of the total value of Indian exports to all countries including the United Kingdom, so far as the figures regarding the United Kingdom alone are concerned, they gave not actual figures, but actual figures *plus the potential additional market in that country*. For a much smaller offence than that, others have been called dishonest. My Honourable friend,

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Mr. Burt, has remarked about some inaccuracies in our statements about castor seed in our report. I may state that our statement was based on those figures and notes supplied to us by the Government. I may point out in this connection—I do not mean any offence at all—regarding figures of 1928-29, I find under castor seed that in 1928-29 we have a production of 113 and exported 121. (*An Honourable Member*: “Export is more than production!”) Yes, so far as castor seed is concerned, probably it takes potentialities into consideration—potentialities to multiply itself in our warehouses.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member will please conclude in five minutes more.

**Mr. B. Sitaramaraju**: I would like to mention one fact. Much has been said about the interests that are served under this Agreement,—the interests of the agriculturists. We have stated that so far as expansion is concerned, it is not a question of mathematics. It is not a question of even how much land is available for us. It is primarily a question of the capital that can be brought to bear upon the agricultural development of the country, and it is not every kind of land either that is valuable for that purpose. Further we have to take several other factors into consideration when we speak of agricultural expansion. As we have stated, it will be long before any appreciable results can be achieved in this direction. Remarks have been made about wheat and rice. So far as rice is concerned, you will find that Burma sends about 52,000 tons and we export only about 4,600 tons. It was remarked by comparison with a particular year that the intake in the United Kingdom was found to be increasing. Whatever may be the increase in a particular year over a previous year, if we examine the figures for the last ten years the intake of rice in that country has fallen considerably. We find that the exports to U. K. from all countries have fallen from three millions to two millions cwt. We have quoted the Imperial Economic Committee's finding in our Report that the Burmese rice is not of that translucent character which would command a good market in the European countries. If I had time I would have developed that point, because there seems to be some misapprehension as regards the interpretation of the remarks of that committee. The interpretation which we sought to put on the value of this trade was put on the strength of the Statistical Abstract of the United Kingdom as well as on the findings of the Imperial Economic Committee's report. From the figures that we have studied, from the figures which have been made available to us, and the remarks that have been made in the Imperial Economic Committee's Report, we came to the inevitable conclusion that so far as Burma rice was concerned, it was not of such a quality as would have commanded a great market in European countries, and when we take the Indian export, we find that the Indian export of rice is of such a small quantity. The export to the United Kingdom both of Indian and Burmese rice, both taken together, would come only to five per cent. of our total exports of rice. No doubt, it can be said that five per cent. may mean so many lakhs of rupees and to those of us who have been thinking in terms of thousands, “lakh” certainly is a very big sum. We must consider that it is only five per cent. of that trade in rice and that the other 95 per cent. must be worth very

much more proportionately high. Regarding wheat and similar other commodities, preference is not of much value. Under these circumstances I think that it is not fair that the country should be asked to take on this Agreement for a period of three years as an experimental measure. With these few words, I oppose the amendment.

**Dr. Ziauddin Ahmad** (United Provinces Southern Divisions: Muhammadan Rural): Sir, I can understand and appreciate the position of those who oppose this Agreement on political grounds. They are opposed to any Agreement, whatever its form may be. That is a clear issue, but when arguments are brought forward on economic grounds, then I should like to make a few observations on the subject.

I like to examine the effect of this Agreement on three important points, that is the effect on the agricultural products, the effect on the industry and especially the cottage industry and its effect on the consumers, which is the same thing as the price level of the article. I shall take these in turn. Before I examine the effect on agriculture, I like to examine two certain assumptions which are very often made in arguing the question. The first assumption is that the capacity of the production of India is limited. Now, that is a point which I do not like to subscribe to and any one who has got practical experience of agriculture will at once refute it. In 1929-30, we find that 294.7 million acres were under cultivation, and 172.9 million acres of cultivable land, that is, about 60 per cent. were not under cultivation. I just refer to my Supplementary Note where I gave the figures of cultivable land for each Province and I take them as read, because I do not want to waste the time with these figures. If a profitable market could be found, it is quite possible for India to increase the agricultural products immediately by ten per cent., because out of the 60 per cent. agricultural land I think we can begin to cultivate about 1/6th of that. The second assumption which is very often made in arguing the whole case is, that the United Kingdom cannot retaliate, but foreign countries will at once retaliate. Now, the United Kingdom is not in a position to retaliate on the ground that she cannot go on without the raw products of India which are necessary for her manufacture, but foreign countries who require the same materials for the same purpose will be able to retaliate. This is a proposition which is not intelligible to me. Either both the United Kingdom and the foreign countries can retaliate or none of them can do so. To say that one of them can retaliate, while the other cannot, is inconsistent. If foreign countries started retaliation, then the first country of the British Empire which will begin to suffer and suffer most from this retaliation will be the United Kingdom, because she has much greater stake. Our volume of trade with the foreign countries is 384 millions and the volume of trade of the United Kingdom with the same countries is 1,688 crores, 4½ times the volume of trade of India. Therefore, if the foreign countries started the policy of retaliation with any success, then the first country which will demand to go outside this Agreement will be the United Kingdom herself and she will be the first party who will demand that this thing may be got rid of. I admit that the United Kingdom has taken a leap in the dark. I have clearly said so in my Supplementary Note, but we believe that this Agreement would lead to the expansion of the volume of trade and it is with this belief that the whole Agreement is made. Time alone can show whether this assumption is or is not correct, because there are so many factors in this question which we cannot foresee at present. I definitely maintain

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that this Agreement would lead to the expansion of our export trade. By this Agreement our export can certainly not diminish and it may rise. To what extent, it is exceedingly difficult to say.

Now, everybody has admitted that this Agreement would lead to the expansion of our agricultural trade as far as the United Kingdom is concerned. When they talk of the diversion of trade, it really means that our trade which was going to foreign countries will now go to the United Kingdom. It means that trade with the United Kingdom will increase. I have only to show that the trade with foreign countries cannot diminish. My reason is this. We know very well that the value of sterling was 4.86 dollars. Now, it has been reduced to 3.16 dollars. It really means that in the foreign countries the value of our rupee, which is linked with sterling, stands at ten annas five pies, that these foreign countries for ten annas five pies can purchase an article equivalent for which England pays one rupee. If the United Kingdom has to pay one rupee for a certain article for which the foreign countries in their own coin pay ten annas five pies or, in other words, if they are getting the same article for two-thirds of the price, then they will certainly come to us and buy cheaper. Sentiment has no place in trade. On account of the fact that this exchange has reduced the value of rupee to two-thirds, the foreign countries are bound to buy, simply because they will obtain things much cheaper. Therefore, if the trade with foreign countries will not diminish, the trade with the United Kingdom is likely to increase. The total result will be that by this Agreement our export trade can never diminish, and it is bound to increase. By how much, it is very difficult to foresee. In the Supplementary Note which I submitted, I attempted to give the figures of capturable trade for each commodity and the amount which we are likely to capture. The capturable trade is over 100 crores and I guess India's share to be seven crores. I am asked whether I am certain. If I could foretell with mathematical precision, I would have been a millionaire and would not have been here. I say, that our foreign trade with United Kingdom is bound to increase. Our trade with foreign countries cannot diminish. Therefore, the effect of this Agreement will be favourable to our export trade.

Now, I come to the second question, its effect on industries and specially cottage industries. This, I admit, is a very difficult question. We could not examine it, because there are so many different issues in it. It was a practically hopeless task to examine it at this stage. It requires a Tariff Board sitting for years and years to find out the effect on each and every industry if this preference were given. It is also difficult to adjust the manner in which preferences may be given whether tariff rate should be plus or minus or both plus and minus. I give an illustration of one particular industry which came to my notice, and this is the glass industry. Persons, who were interested in the glass industry, said very clearly that they required certain chemicals for their glass manufacture. If the preference is given to the United Kingdom by diminishing the duty on chemicals, so that they can get the chemicals cheap, and the preference on finished article is given by increasing the duty by ten per cent. on foreign glass, they will certainly be benefited as their competition lies with Japanese glass. Therefore, the benefit of the cottage industries depends not so much upon the Agreement, but how this Agreement is given effect to, and that is a thing which we cannot at present determine.

but we have got to see how the whole thing is materialised. This was the reason why we came to the conclusion that unless we sat down like a Tariff Board and examined the matter for years and years, we could not decide the issue. The only other alternative which we adopted was to sit as a Committee year after year and consider the results thoroughly after three years, either on the report of the Tariff Board or the Department and visualise in our minds what those results would be.

Now, coming to the third point about the price level, that is a very difficult point. My Honourable friend, Shaikh Sadiq Hasan, in his speech thought that the price level would be raised because things would be dearer. Later on, in his speech, while arguing the effect of the Agreement on industries, he said that our industries after this Agreement might not be able to compete with foreign articles and that price level would diminish. Thus, in his own statement he took up both the positions,—on one side that the Agreement will affect home industries, and this means that the price level would be lowered, then, at the same time, he took up the position that articles would be more costly to the consumer. If the price level is lowered, it would benefit the consumer, if it is raised, it would benefit the industries. The question whether prices will go up or go down is a sporting question. Let me illustrate it by referring to a discussion which was held in an assembly whose name I do not like to divulge under the Official Secrets Act. The debate was on this question, suppose we have a pulley and a rope is passing over it. A monkey is on one side of the rope and he is balanced by weight on the other side of the rope. The monkey now began to climb up the rope. Then the question was, will the weight go up or go down? The house was hopelessly divided; and, after a heated discussion, the President called for division. The votes were recorded and they found equal number of votes on either side. The President was asked to give his casting vote. The President of that assembly, who was a great expert in the theory of statistics, said that since the votes on either were equal, therefore, the weight would neither go up nor go down.

**Mr. K. Ahmed:** What about his casting vote?

**Dr. Ziauddin Ahmad:** The President said that it would neither go up nor go down. I am sure that even in the case of the Members of the Treasury Benches, who always vote as a team on one side, if they are divided on this particular issue whether the weight will go up or go down, a half of them will be found in the Lobby for Ayes, and the other half in the Lobby for Noes.

**Sir Abdur Rahim** (Calcutta and Suburbs: Muhammadan Urban): Let them do that.

**Dr. Ziauddin Ahmad:** The discussion continued and the debate was held a second time. The recorded votes the second time were also equal. The new President was a business-like man of common sense. He said, let us have a pulley and rope and bring the monkey and weight and actually see whether the weight would go up or go down, and he tried the experiment and actually found that the weight neither went up nor it went down, but was stationary. So he gave his ruling. The same is the case with our price level. If you decide the matter by the theory of statistics, the price index of Import will go up, and it would go down under



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the effect of this Agreement. Sir, this is an exceedingly difficult issue and I challenge any one to predict whether the price-level will go up or go down. In my opinion, the Agreement will have practically no effect on the price-level,—whether the preference we are going to give will fall on the original producer or on the consumer: it depends on the price-level and it is not going to be affected by this method. I just, by the way, put a question whether you want the prices to go up or go down. Here opinions will be hopelessly divided. The Honourable the Finance Member, in his admirable note, which is printed as an Appendix to the Report, laid a very great stress on the desirability of raising the price-level, but he will, I think, find that this Agreement cannot help him either one way or the other. He will have to find out some other methods for raising the price-level. I discussed it in connection with the price-level of wheat. There is one thing, Sir, to which I would like to draw attention. I calculate that the value of the preferences given to us under the Ottawa Agreement are much more than the preferences which we give to the United Kingdom. I calculated the value of preference of each commodity and I found that in total we give preferences to the extent of 2.35 crores and we receive preferences equalling 7.4 crores, that is more than three times. Of course figures may be said to prove nothing, but if they do not prove anything, then what else will prove it? The other point to which I would like to draw attention is that we have already given preferences on iron and steel and also on our piece-goods to the extent of 2.16 crores. Now we swallowed this pill of 2.16 crores without any serious protest, and this preference was gratis without any receipt. Now, under this Agreement we are giving 2.35 crores in exchange for 7.5 crores. Then we say that our Delegates have sold us in an unreasonable attitude. Even if we take the two preferences together which come to about 4.9 crores, we are not losers. I myself do not lay great stress upon this balance-sheet as conclusive evidence, but it is one way of looking into the question, this balance of preference is entirely in favour of India. I only say, if other arguments fail, if no definite assertions can be made now one way or the other, then the only thing which is left to us and on which we can base our judgment is the balance of preference which I have just quoted. Sir, in the absence of conclusive economic reasoning, I rely on the value of preferences only. By this Agreement we give preference to the extent of 2.35 crores and we are receiving preferences up to 7.4 crores.

Sir, I have carefully read every word of what has been placed before me and I admit that everything written on the subject is against the Agreement. I am convinced that this Agreement is certainly favourable to the export of agricultural products. It will have no effect, I think, on the price-level, and the Honourable the Finance Member will have to devise other methods by which he may raise the price-level. And, as regards its effect on the home industries, we shall have to watch the situation year after year and, then and then only, we can say what permanent effect it will have. With these words, Sir, I support the amendment.

**Mr. G. Morgan (Bengal: European):** Mr. President, as I have already spoken on the original Resolution, my time is very limited and I shall confine myself to the Report and to remarks made in this House. I could not follow the arguments of my Honourable friend on my left, who is not present at the moment; he made one remark which I should like to

point out is not quite correct. He said that a threat had been held over the Delegation at the point of the bayonet—I think that was his remark—that if you don't do this, we shall do that, which will hurt you. Now, as a matter of fact, the 10 per cent. duty under the Import Duties Act was imposed in March last, and those duties have been in existence since that date. The position merely was that as far as the Dominions and India were concerned, the duties were in abeyance and they were guaranteed to be in abeyance till the 15th November or, as in our case now, till the ratification of the Agreement. Then, my Honourable friend, Shaikh Sadiq Hasan, spoke about the past history. I do not pretend to know what large industrial concerns there were in the Moghul times, or that they were there at all, but now were dead and gone. Why they did go? He did not answer that point. (*Voices*: "They were destroyed by the British." "The East India Company." "Read your own history.") Sir, I do not know that India can claim to have had more than what we now call more or less cottage industries at that time.

Then, Sir, coming to the Committee's Report, it seems to me that my Honourable friends on the right were rather letting political prejudices and feelings against Great Britain run away with their views on this important Agreement.

**Mr. S. C. Mitra:** What are these feelings for? Why are they there?

**Mr. G. Morgan:** I had the honour of being adviser to our representative on the Select Committee. I heard all the arguments for and against, and I can assure this House that they were gone into in very great detail. Nothing was accepted as an established fact at all, and everything was threshed out as far as it was possible to do and that too in very great detail, and the figures that were supplied to the Select Committee left me in no doubt at all. My Honourable friend, who has just sat down, has proved it, in a much greater detail than I can do, that India stands to gain by this Agreement. There is one point which most of the Honourable Members who have spoken have laid stress on and that there cannot be any expansion of trade but only a diversion. Well, Sir, there is an important point which they have ignored, and that is the loss in trade. I claim to speak for traders and I am quite certain in my own mind that if this Agreement is not ratified, there will be a considerable loss in trade in many items and also a set-back in many others. I would only mention articles such as tea, coffee, wheat and jute manufactures. We all know what would happen if the preference was taken away so far as tea is concerned. Then I would refer to the Supplementary Agreement with regard to iron and steel. The collieries which are looking forward to an increased demand under that Agreement, would not get that increased demand which is very important from their point of view. My Honourable friend, Mr. Sen, would support me in this, if not in others. The collieries are most important and they should be able to sell more coal, and the railways, which are at present in a semi-parlous state, would carry more coal. With regard to jute, I think Members are labouring under a great delusion. The jute manufacturing trade is not in what I would call a very healthy condition. It is working short time and a large percentage of looms are sealed up. Now, Honourable Members may say: "Oh, that is nothing: it is only six per cent. which is exported to the United Kingdom: what is this six per cent.? We can easily find a market for it elsewhere". That shows they know nothing about the

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trade at all. It is with considerable difficulty that we can sell our production at present anywhere, and the market is sagging again owing to many circumstances. We decidedly want this preference for jute manufactures. At the present moment the Jute Mills Association and those who are not inside the Association have got an agreement and they are now discussing as to carrying on that agreement for another year, after next June. Now, would they do that if they felt there was no difficulty in getting rid of the production which they have at present and being able to sell it without difficulty? I know they can't. We want more purchasers, and if you cut out that United Kingdom trade, you lose business worth some £1,500,000, to say the least of it.

Then, Sir, there are two points in the Committee's Report which ought to be commended to this Honourable House. We have the six months' notice under the original Agreement, and we have now established the right of the Assembly to criticise and to decide, at the end of three years, Government giving annual reports as to the course of trade in the articles which come under this Agreement. These returns are to be scrutinised by a Committee, consisting of not more than 15 members, and it will be able to report to this House in detail whether the whole of the Agreement is good or bad, or whether it is only good or bad in certain articles. I consider that a great achievement for this House. With regard to discriminating protection, my Honourable friend, the Leader of the Nationalist Party, pointed out that this is answered in paragraph 13 of the Majority Report. I need say no more, because if Honourable Members will read paragraph 13, they will see that it is perfectly clear, what the Honourable the Leader of the Nationalist Party has said is correct. With regard to the consumer.—It has already been pointed out in paragraph 14 of the Majority Report that so far as one can possibly judge, there will be no burden on the consumer.—The only people who can decide are the merchants who will have to work this Agreement by buying and selling, and it depends on whether there is greater competition to sell than there is to buy. Whether Members of this House are merchants or not, I do not know, but I can tell them that we all try to sell, and the greatest difficulty now is to get buyers. At the present moment the competition to get buyers tends towards a reduction of price, whatever the position of tariffs or preferences.

Now, with regard to the Minority Report, there are just a few items to which I would like to draw attention. I have already mentioned the policy of discriminating protection and the Minority Report says that this Agreement will come in conflict with that policy. I deny that absolutely. But there is one important thing which my Honourable friend, Sir Abdur Rahim, and the other two Members have said, *viz.*:

"We would repudiate any suggestion that the scheme should not be accepted even if it is advantageous to India because at the same time it is advantageous to Britain." I hope that is the real meaning of the Minority Report and I welcome the fact that the three signatories to that Report take up that position and I hope will not be led astray into side issues. From what we know and what we have studied, there is not the slightest doubt that the Agreement will be advantageous to India, and I claim that it is more advantageous to India than it is to England. I should like to challenge anybody who denies that. I do not intend to go back so far as Lord Curzon in 1903 and the Fiscal Commission in 1922, because I am one of those

people who now feel that the world has changed so much since 1929 that we could paste a piece of blank paper over everything that has been said and done years before. We have now got to start afresh. The United Kingdom has taken up an entirely different attitude, and we are anxious to see that our trade does not suffer because of that attitude. We cannot change the attitude of the United Kingdom, but we are not going to allow that attitude to disturb our trade. We will be satisfied if we can get our trade secured in the most stable market and our best customer, *viz.*, the United Kingdom. If we can get that trade secured by accepting this preference, I shall be only too thankful, speaking as a merchant. In this Minority Report there is a remark under tobacco which says:

"If preference were withdrawn, the loss to India is estimated to be about 1 per cent. of her total production."

But why should we lose anything? That is my point. We cannot suddenly say that if we lose trade with the United Kingdom, we will sell to Timbuctoo! Merchants cannot do that sort of thing. You **may** put it down on paper on the floor of this House that if I cannot sell to A, I will make B take it. Merchants cannot do it. We are the people who will have the working of the trade, and make it a success, or a failure.

There is one other point, Sir, if you will allow me a minute.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member has two minutes more.

**Mr. G. Morgan:** I will finish easily in that time. It is with regard to aluminium. Sir, one of my friends on my right said that he had read a lot of papers about the aluminium trade and that it was evidently going to be absolutely ruined. He does not know the aluminium trade, that is what I gather from his remarks. I may tell you, Sir, and, through you, explain to the House, that a European cartel exists, British, Swiss, French and Germans being interested parties. There is a clause in the Agreement stipulating that all large manufacturing companies of utensils must pay the same price for aluminium circles and sheets, that the price is a fixed price, with quotas to the foreign countries. That is not how the manufacturing trade in this country puts it, when arguing against the Agreement. An increase in duty on the foreign metal will be paid by Continental producers, because they cannot get away from their fixed selling price. They cannot get any better price for their articles, because that is all fixed under the Agreement. So aluminium utensil manufacturers in this country stand to lose not one pice by this preference, they really stand to gain.

Sir, I support the Resolution.

**Mr. H. P. Mody** (Bombay Millowners' Association: Indian Commerce): Sir, when I spoke on the Resolution moved by the Honourable the Commerce Member, I gave expression to various doubts which I then entertained with regard to the value of the Ottawa Agreement. I asked for the appointment of a Committee to properly study that document in view of the fact that the time and materials available to Members of the House were insufficient for that purpose; and I then gave the assurance that if I was convinced that the Agreement was to the benefit of India,

[Mr. H. P. Mody.]

I would be its strongest supporter. I have risen, Sir, in my place today in fulfilment of that pledge. The examination that I have made of this Agreement, with the help of my colleagues and of the enormous mass of material placed at our disposal, has convinced me that India cannot stand out of the arrangement made at Ottawa without a vital injury to her interests. I recognise the weight of industrial and commercial opinion against me in this matter. I recognise also how completely I have fallen from grace in the last three weeks. But I am prepared to stand up on any platform and face any number of economists and businessmen in support of my point of view.

Sir, a great many critics have tried their hand at this Agreement,—a great many critics, wise and otherwise. The resultant confusion has made it impossible for the general features of this Agreement to be recognised, and has absolutely obscured the larger economic background against which this Agreement has got to be placed if it is to be properly appraised. Our report has tried to get away from details. It has tried to state as fairly and as briefly as possible what this Agreement really means to India; and I hope that those who criticise the report will at least do the framers of it the justice of conceding that a very fair estimate has been made of the precise value of the Agreement.

What is the general picture which the Report presents? First of all, Sir, taking the export side of the question, we have tried to show in what commodities the preferences that we have obtained are valuable, in what commodities they are of no value and in what other commodities they may be of value in the future if certain developments take place. There are, for instance, commodities in which there is little competition from Empire countries and where the preference would be of undoubted value, such as rice, paraffin wax and ground-nut oil. There are others in which preference has been obtained actually at the expense of the United Kingdom producer, such as jute manufactures and pig-iron. And there are other commodities in which the withholding of preference would entail very serious injury to Indian commerce and industry, such as tea, coffee and tobacco. I shall not attempt to deal with any figures; the time for that is past. Our Report and the Delegation's Report are there. I will only place before the House the general lineaments of this Agreement as I now see it. Now, it has not been disputed by any critic, whether in this House or in the Committee which sat to examine the Report, that in certain commodities at any rate the preferences would be undoubtedly valuable. But the argument has been advanced that after all the increase which you may obtain in the trade with the United Kingdom may be at the expense of your trade with foreign countries. To a certain extent I grant that it may be true; but I think that to an extent equally large, it is also true that the volume of trade which we would obtain in the United Kingdom market would be a net increase of our trade, and would not mean merely a diversion of it from foreign countries. In this category I will place the various vegetable oils for which there is an enormous market in the United Kingdom, where the increase of trade would not be at the expense of the trade with foreign countries.

This being admitted, namely, that we obtain some valuable preferences which are of use to us, the argument is used that after all India stands in an impregnable position, that she is the world's principal supplier of food-stuffs and raw materials, that she holds a monopoly of various

articles and that, therefore, whatever she did or did not do, her position could not be threatened. I say, Sir, as my friend, Mr. Morgan, just pointed out, that when we are thinking like this we are thinking in the past. We are dealing now with conditions which have enormously altered in the last three years, and it is these altered circumstances that we have to take into consideration when framing an estimate of the situation. What is the position today? The warehouses and markets of the world are glutted with enormous stocks of practically every commodity. Even in that commodity of which we hold a monopoly, namely, jute, there are enormous stocks. At the present moment the world is holding something like 50 per cent. more of stocks in many of the principal commodities like wheat, cotton, rubber, coffee, than was the case only a few years ago. It is a matter of equal importance to recognise that the situation with regard to our general export trade has changed very materially. The foreign markets which we used to command are no longer at our disposal through a variety of causes. Principal among these causes is the tariff walls which have been raised in the last two or three years. The Report has given a statement of the various duties which foreign countries have imposed on a number of articles.

**Mr. B. Sitaramaraju:** You do not read the Minority Report which also deals with that.

**Mr. H. P. Mody:** When I refer to the Report, it means the Majority Report. I recognise that the Minority have not omitted that aspect of the question. I have great respect for the Minority's Report, but I am developing my argument on the Majority and not on the Minority Report.

I should like to quote from the World Economic Survey of 1931-32, a League of Nations publication. It says:

"More direct reduction of imports was achieved in 1931 by the introduction of quotas (Czechoslovakia, France, Italy, Latvia, Netherlands and Turkey); by prohibitions (Czechoslovakia, Denmark, Estonia, Poland, Turkey and Colombia); by State monopolies (Estonia and Sweden); by new import duties (Great Britain); by increased duties (Austria, Argentina, Australia, Belgium, Brazil, Bulgaria, Denmark, France, India, Italy, Latvia, Lithuania, Netherlands, Poland, the Union of South Africa and Switzerland); and by Customs surtaxes for depreciated exchange (Canada and France)."

What I am putting forward is supplementary to what the Report has contended, namely, that the situation in foreign countries has changed to a considerable extent. Another factor of equal importance to our trade is the fluctuating conditions of world currencies,—the extremely unstable condition of practically every currency in the world. We are linked to sterling: and so far as our trade with Great Britain is concerned, the effect of exchange does not arise: but as regards foreign countries, our export trade must necessarily be affected by the uncertainty of currency fluctuations.

Then there is another consideration which ought to make us recognise that our position is no longer impregnable in foreign countries, and that is the enormous reduction which has taken place in the price levels. From October, 1929, which was the crucial date, to March, 1931, the price level of imported articles has only fallen by 14 per cent., while that of exported articles has fallen by as much as 39 per cent. What is the inference to be drawn from this? The inference is that we pay more in the shape of exports for what we import than we did prior to October, 1929; and it is as a result of this that you notice particularly in four

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countries, namely, France, Italy, Japan and the United States of America, that our trade has been diminishing to a considerable extent in the last three or four years. That brings me to the consideration that Great Britain today is the largest and also our most stable market. I will invite the attention of Honourable Members to what appears at page 134 of the Review of the Trade of India: there they will see how the character of our export has changed, how Great Britain maintains her position with regard to our exports, while other foreign countries are taking less and less every year. I myself have compiled the figures of the last 15 years, and my study of the question tells me that measured in values our export trade with foreign countries has dwindled to a very much greater extent than our export trade with Great Britain. Therefore, we are up against this, that we are concerned with a market which is the largest and most stable market, and which, if we refuse to deal with it, is bound, in view of the Ottawa arrangements, to do away with the preferences, and put us in the same position as foreign countries.

Another consideration which my Honourable friends who oppose this Agreement have lost sight of is that there has been a radical change of policy in the United Kingdom in the last few years. I shall not deal with the Key Industries Protection Duties, the Safeguarding Duties, and the various other breaches in the free trade policy of Great Britain which lasted well nigh over 70 years. I would invite the attention of the House to a resolution passed by the bankers of Great Britain in July, 1930, which was a prelude to the further and final breach in the free trade citadel which took place in March last. That resolution stated that the time had arrived when Great Britain must impose on all imports from foreign countries higher duties than on imports from Empire countries. I finally come to the Import Duties Act which was the logical sequel to this growing change of policy on the part of the financiers, industrialists and statesmen of Great Britain. Thus it is that when we are asked to ratify an Agreement with our largest and most stable market, and which ensures a continuance and also increase of our trade with that market, my answer after examination can be only one, and that is that I am not prepared to give up the preferences which are being offered to us. If our position in the foreign markets was as secure as it was a few years ago, I would have said that we should be prepared to take the consequences. But that is not possible in view of the enormous changes which have taken place in financial and industrial policy.

The only question that arises is: are we acquiring these preferences at the cost of our vital interests? There there are only three points to be considered, our industries, the consumer and the taxpayer. I was very agreeably surprised this morning at finding so many champions of industrial interests in this House. (Laughter.) For years I have been conducting a long fight with the Government of India with regard to the industry which I specially represent, for years,—at least for such time as I have been here—I have strongly supported the case of such industries as have come to this House for relief. I did not find any enthusiastic champions of industry in those days. In view of what may happen in March with regard to the industry which I represent, it has given me great pleasure to listen to my friends and to see their touching sympathy for industrial interests. I shall know now that even if I have to deal with an obstructionist and unsympathetic Government, here is a large

and influential section of the public which will stand behind the industry which I represent. (Laughter.) I would have been very glad if my friends had stopped short at that; but the implication is that now they are amongst the gods, that they are the champions of industry, and I who have always been fighting for protection to the textile industry have deserted the cause. Perhaps my Honourable friends do not know, apart from the consistent interest which I have taken in these matters and the way in which I have always fought for every industry that has claimed relief, that even today I am engaged in an argument with the Government of India with regard to the necessity of putting on the Statute-book some safeguarding legislation which would ensure to all the industries in the country their right place. It is, therefore, idle to tell me what my duties are in regard to the protection of industrial interests. The Report tells us exactly how we are going to deal with the problem. A great point has been made of the admission that we have not had enough time to examine the import schedule. If we had been less fair and if we had not said that, the Report would perhaps have been acclaimed as a much more convincing document; but because we were eminently fair and because we said exactly how we have viewed the opportunities of examination that have been given to us, my friends are making a point of it. What, however, is the real point? The point is only that during the committee stage we had not enough opportunity of examining the import schedule; we are now going into Select Committee and when we do so, then I assure my Honourable friends, if they need any assurance from me, that the case of every single industry, which may be affected by the adjustment of the preferences which are to be found in the schedule, will be very carefully considered, and so far as I am concerned, I shall not be a party to any Report unless, when I have made out a *prima facie* case, the case has been conceded and due protection given. While we have admitted that not enough time had been given for the examination of the import schedule, you must remember that this Report came out on the 18th October; supposing it was in the hands of the public in another week, there has been enough time and opportunity to every industry affected by it to come forward and say that its interests are threatened by the way in which the preferences are arranged in the schedule, as so many of them have done, and the case of each and every one of them, I repeat, will be very carefully examined.

Sir, very few words are required in respect of the position of the consumer and the taxpayer. So far as the consumer is concerned, the same considerations will guide us, namely, that if we feel that the duty has been imposed to the full extent of ten per cent. preference against the foreigner and if we find that the foreigner holds the market, and that perhaps by raising the duty in that way the consumers' interests will be threatened and no advantage will accrue to Great Britain, we shall press for a reduction of the duty against Great Britain rather than for raising it against the foreigner. These are all questions which will have to be examined in the Select Committee, and it serves no purpose to fasten upon what we have said in our Report to the effect that we have not had enough opportunity of examining the Import Schedule.

Lastly comes the case of the taxpayer, and it can be dealt with, in a few words. We have the assurance from the right quarter, namely, the Honourable the Finance Member, that so far as the taxpayer is concerned, the Schedules have been so arranged that taxes will not be raised . . .



**An Honourable Member:** 40 crores he has already taken.

**Mr. H. P. Mody:** He may have taken 400 crores in the past. How is that relevant here?

**Mr. S. C. Mitra:** What does it matter?

**Mr. H. P. Mody:** My friend says, what does it matter? He has got a better fed look than I have (Laughter), and he talks of the taxpayer's interest. We have fought against taxes just as strongly as he has, and we are paying taxes just as he is, perhaps to a much larger extent than he imagines. I say that so long as we have the official statement that in the arrangement of the Schedule care has been taken to see that the revenues are not affected and that in consequence no necessity arises for increasing the taxes on any article, we must be prepared at the present moment at any rate to accept that position. When we find that the position is altered, we shall know what to do.

There are just one or two points I want to deal with. We say in our Report that it is not possible to dogmatise on these questions, and that the only test is experience of the actual results over an adequate period of time. That should not be distorted. We have at the same time definitely said that, so far as we can examine this position today, we are convinced that the Agreement is definitely to the interests of India, but we recognise that economic conditions change, and, therefore, we say that it is not possible for us to lay down definitely what the advantage to India will be. All that we mean is that according to our present reckoning, the Agreement is distinctly of benefit to India.

Now, Sir, I come to the last of the points in our Report, and that is the safeguards we have provided for ensuring that not only the working of this arrangement will be carefully scrutinised, but that proper opportunity will be given to the public and this House to rectify any blunder that we may have inadvertently committed; for that we have provided two safeguards. First of all, there is to be an Annual Report, a document which will set out exactly how our export and import trade has fared under this arrangement, how agricultural commodities and industries are affected, what applications have been received from various interests, how they have been dealt with by the Government of India, and so on,—it will be a complete document which will tell the public how the matter stands with regard to India's participation in this Empire arrangement. And finally, Sir, we have secured for this House a most valuable privilege, a privilege which the Government Benches have conceded after some argument, and that is that, at the end of three years, if this House, on an examination of the whole situation, is in a position to say that the Agreement is not to the advantage of India, and says so in a Resolution, then the Government of India undertake to give effect to that Resolution, and to give the consequential notice. That, I regard, not only as a safeguard for the country, but as a valuable privilege for this House.

Sir, I have only one word to say. My own part in this business has been, I see, fiercely attacked in the last few days.

**An Honourable Member:** By whom?

**Mr. H. P. Mody:** By critics of every description. In spite of the fact that I made a strong speech raising doubts about the value of the arrangement, I decided later on that this arrangement is in the interests of India, and when I came to that conclusion I was not going to draw back, and because I had made a certain speech, to shut my eyes to facts, and to stand up again in my place and ignore all the considerations, economic and others, which have appealed to me and convinced me that standing out of this arrangement would hurt India's interests vitally. (Applause from all sides of the House.)

**Mr. Uppi Saheb Bahadur** (West Coast and Nilgiris: Muhammadan): Sir, I do not know much of economics. I cannot play with crores of rupees or millions of sovereigns, but I understand one thing. Just now the last speaker mentioned something about the safeguards, that after three years Government will come before this House with a Report about the working of this Agreement and then we can give expression to our feeling whether in favour or against the arrangement by means of a Resolution. I ask, Sir, can we get out of this Agreement after three years? Are we an independent body? Have we any power to force the hands of the Government to take action in the manner we desire if we find that this Agreement proves to be against us? Are the Government of India an independent body? They are under the Secretary of State. After three years, when millions of rupees have been drained away from this country on account of this Agreement, after diverting our trade from different parts of the world to the United Kingdom when the United States, Japan and Germany make other arrangements for their own supplies, we will be called upon to give our opinion. That will be the time when it will not be possible for us to bring back our commerce to the present position. Now, we have got markets in Japan, in Germany and in the United States, and, by this Agreement, as the Committee have told us, we shall be taking a leap in the dark. By this Agreement all these customers may go away, all our trade will be diverted, and we will have to depend for our trade on the United Kingdom alone. After three years if we find ourselves in a bad position, what will be our remedy to get back all those customers? None of the previous speakers has told us a remedy. We have no vessels to carry our cargo to Japan or Germany or the United States, and we have to depend entirely on those people to come back again to purchase our goods or on British vessels to carry our goods to them. I know it is a known fact that in trade people buy raw materials only from markets where they can sell their produce. If we fall out with Japan or Germany by this Agreement, then they may not buy our raw material. My only doubt is, in spite of the so-called safeguards, what we can do, if we find ourselves in such a bad position after three years, to come back to our present position? Sir, now a Bill also is going to be introduced into this House to enhance the tariff on foreign goods, and it is very likely to be passed by this House. Then what is the remedy to get back to our position? We will have to introduce a Bill to repeal that Act. Can we repeal it? That depends upon many things. Before introducing it, we have to get the previous sanction of the Governor General. If we could get the previous sanction of the Governor General, we have to pilot it through this House, and if we succeed in piloting it through this House, there is the other House. All these barriers we will have to cross, and, above all, this is an Agreement between two parties, that is the Government of Great Britain and a dependent country like India. Even if we do all these

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things, we have to satisfy the Secretary of State for India. If he does not move in the matter, all our endeavours will be lost. This safeguard, to which my Honourable friend, Mr. Mody, has referred with satisfaction, appears to me to be only an eyewash. At the time of the ratio controversy, we were told that 18 pence ratio was going to benefit India very much and that a millennium was going to set in here. What is the result? I have heard those very people who voted for the 18 pence ratio repenting now. The same, I think, will be the result if we agree to this Agreement, and we shall be jumping into a fathomless deep to get out of which there may not be any way.

**Bhai Parma Nand** (Ambala Division: Non-Muhammadan): I have gone through the reports both of the Majority and the Minority Committee. Though the arguments given by both parties are expressed in very forceful and strong language, they take us nowhere. On the whole I feel that they leave us simply in uncertainties. There is one common fact which I can detect in the reports, and that is, that the Agreement is a leap in the dark and might prove to us of no special advantage.

My point of view is entirely different. I do not consider that all these our rough calculations with regard to separate commodities are so very important just at present. So I want to look at this question from another stand-point. One main thing that we have to consider is whether India is going to gain or to lose by this Agreement. That means, in other words, whether by entering into this Agreement, we are going to have our trade and industries developed in this country or not. Taking the development of our industries and trade as our main-stand, I think, we should look at this question from a different angle.

We have seen, during the last 25 years, what an agitation has been going on about Swadeshi and boycott. I think both the Swadeshi and boycott are merely negative weapons. They do not give us any constructive plan. Let us see. We preach Swadeshi or boycott of foreign goods. In case we are unable to produce those articles and commodities in our country, that preaching of ours can go only to a limited extent and cannot take us any further. Let me take an illustration from politics. Take the present political situation. We find that there are three parties. There are revolutionaries who want to make the country free by terrorist methods. Then there is another very strong party in the country represented by the Congress school of thought, which has adopted civil disobedience and rely upon it as their instrument to gain independence. Both these methods represent, however, simply destructive kinds of work. My point is that by simply preaching civil disobedience or by acting on terrorist methods we cannot have freedom for the country. They can end in anarchy and nothing else. There is, then, the third party which believes in the process of constitutional evolution. This party owes its real existence to the introduction of the reforms, and Members of this Assembly, I take it, belong to this party, however much they might talk in favour of civil disobedience or any other method. By their very presence here, they believe in constitutional methods to attain their goal. Just as they believe in the constitutional development of the country as the one way for attaining their political end, they should understand that this Agreement would work for them in the matter of the economic development of the country.

The question before us now is, whether we want to have our industries developed on some practical line, or whether we want to press simply upon the negative methods of boycott and Swadeshi for the development of our industries. When I read economics in my younger days, we were given an impression that the British people were great exploiters, and their policy of free trade was due to the fact that they wanted to let India a free trading country so as to keep open the doors of India to foreign traders, because if they wanted to exploit, they could not stop other European countries from exploiting India. We were told that in the matter of industrial progress, India was just a child and the European countries had the position of trained wrestlers and that her industries could never be developed if they were not specially protected from foreign competition. The Great War changed the angle of vision of British statesmen with regard to India's constitutional future, and it is the effects, direct or indirect, of that War which have changed the economic policy of the British people. Sir, I welcome this policy of protection that has been adopted by the British Government, and, I say, if this Agreement is entered into, it would commit the Government of India to a policy of protection. If we translate the negative terms of Swadeshi and boycott into positive aspects, it would simply mean the adoption of a policy of protection. As soon as we adopt protection, we are preaching Swadeshi and boycott, in the most practical way. For a long time we preached the use of Indian made sugar, but however much you may preach about it, if there is no sugar in the country, you cannot have Swadeshim translated into practice. Only last September, by the favour of the Government of India and especially of Sir George Rainy, the Sugar Protection Bill was passed and we find now, during the last three months, more than 25 sugar mills have been set up all over the country. This policy of protection is very essential to the development of industries in an undeveloped country. There might be advantages or disadvantages occurring from this Agreement which we can only know after it has been in force for a year or two, but there is one thing quite clear, namely, that by entering into this Agreement, the Government of India and the people as a whole will commit themselves to a policy of protection. I admit, Sir, this policy of protection is introduced in a modified form, i.e., that of reciprocal protection between England and India, but, all the same, I welcome this policy and I have no doubt that it will be to the benefit of this country in the long run. Again, Sir, the Committee of Vigilance which is proposed to be appointed by this House is another great act which will tend to the creation of a sort of economic awakening in the country. Just as the announcement of the introduction of reforms with the promise of the grant of self-Government in 1917 created a new political vista, similarly, the adoption of this new policy will open new fields of economic progress and this Vigilance Committee, composed of Members of this House, will not only act as a watch and ward, but will see that our industries are not affected badly in any way. I think this is a great step. It may not be much in the eyes of those who are radical in their views in political matters. They are welcome to have their views. But just as there is a practical method by which we try to attain responsible self-Government, so, Sir, this is a practical way to develop our industries. We should understand once for all that without the co-operation of Government it is not possible to do much considering the conditions as they are at present. A policy of protection has been adopted by the Government and we should make the best use of that policy. At the

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same time, this Assembly, through its Committee, is bound to see that the industries of the country are protected. There was a time when if Germany, France, or any other country benefited from their Indian trade at the cost of India, the Government did not take any notice of it. There is a change now. The Empire countries are to be taken as one and, if the Government are sincere in their profession, then this Agreement would be of a lasting benefit to India. And the creation by this Committee, of a feeling, that the Indian industries have to be safeguarded, will act as a great blessing.

**Dr. F. X. DeSouza:** (Nominated Non-Official): Sir, my Honourable friend, Raja Bahadur Krishnamaachariar, who, I regret to see, is not in his place now, questioned my right to make any statement in the Majority Report of the Committee on behalf of agricultural interests, because he thought I was never associated with agriculture. I may correct him by saying that all my life I have been associated with agriculture vicariously perhaps till some years ago, but recently I have devoted myself so entirely to agriculture as to realise the truth of the vernacular proverb:

*"Uttam kheti, madhyam vyapar, nikrisht chakri."*

which simply means that agriculture is the best profession, trade comes next best and the worst is service, Government or otherwise. That shows in what esteem our forefathers held agriculture contrary to the manner in which their degenerate descendants of today regard it.

I have studied this Agreement with all the care of which I am capable from the point of view of the practical agriculturist and I have come to the conclusion that the advantages it secures to the agriculturist, who, after all, represent nearly 80 per cent. of the population of this country, are so great that it would be criminal folly to refuse to ratify this Agreement. Now, what are the advantages secured to the agriculturist? I do not propose to go into detail, but I will point out that the preferences which have been secured to the principal agricultural products of this country, to wheat, rice (whole, cleaned), to linseed, to vegetable oils of all kinds, castor oil, linseed oil, cocoanut oil, groundnut oil, rape oil and sesamum oil, to coffee, to tea, to castor seed, to tobacco and to ground nut, are of enormous advantage. What do these preferences secure to this country? They secure this, that the British Exchequer has given up £1,781,000 or 2 crores 27 lakhs of rupees in order to help this country to retain the United Kingdom markets in the face of severe competition from non-Empire countries. It further means that by granting these preferences the value of the trade which is made capturable by Empire countries from foreign countries is £31,562,000 of which India's share will be £10,106,000 or thirteen and a half crores. It was said that after all this preference will not benefit the agriculture of India, it will not lead to the expansion of the trade of India and that it might lead to a mere diversion of the trade of India. In support of this argument, it was said that after all the Indian agriculturist is not as responsive to the stimulus of external demand as the British industrialist was. My Honourable friend, Mr. Burt, has pointed out how untrue this generalisation was. He has shown how, in the last few years, areas under cultivation of jute, cotton, linseed have fluctuated according to the varying demand from foreign countries. Apart from the elasticity of the area under cultivation, it is also necessary to note that the increased demand from foreign countries

leading, as I shall presently show, to increased prices which will enable the agriculturist to develop his land by intensive cultivation and to increase the outturn of every crop that he grows. In order to understand this position, I shall quote to you just a few figures to show how far behind the rest of the world we are in the matter of outturn of crops in spite of the fact that our soil and our resources are as rich as those of any other country in the world. I will take the figures for the production of wheat measured in quintals, which is a French measurement. The average outturn in the Netherlands is 333 quintals per hectare, in Belgium 284 quintals, Germany 223 quintals, Japan 173 quintals, Canada 149 quintals, United States of America 105 quintals and India only 60. There is thus great scope for increasing the outturn of wheat by more intensive cultivation. Then I shall mention another crop. I refer to the coffee crop with which I am more familiarly acquainted. It is shown that by intensive cultivation such as better fertilisers, spraying methods and other methods which were recommended to the planters by the Director of Agriculture in Mysore, it is possible to raise the outturn of coffee by 25 per cent. every year. What enormous profit is open to the cultivator if by means of this preference he can increase the outturn of his crop and, at the same time, get better prices?

It is argued in the Minority Report, that there is no point in increasing the outturn or securing better prices for the produce if the money will go into the pockets, not of the cultivator, but of the *sowcar*, of the exporting houses and of insurance agents. Surely, Sir, that is an argument which seems to me to be typical of the arguments advanced against the Agreement. Suppose it was similarly said, what is the object of enhancing the fees of the lawyers practising at the bar, because some of the money may be lost by bank failures? What is the object of an argument like that? It has only to be mentioned to be rejected. There is another type of argument. A learned Professor of a University said before us: "After all, now-a-days most of the agricultural crops are produced at a loss, and what is the object of exporting crops which are produced at a loss? It only means inflicting a greater loss to the country." Sir, a more absurd argument could never be advanced. It might find favour perhaps among students in the lecture room, but among business-men in the market place it will be considered to be absolutely stupid. Surely, Sir, we might as well advise the cultivator in a spirit of non-co-operation not to cultivate his land, but to sulk in his hut. That, Sir, is the nature of the arguments which have been advanced in certain portions of the Minority Report.

With regard to the danger of retaliation by other countries, a great deal has been said by those who support the Agreement to show it was a mere hogey and it is unnecessary to repeat what has been said by them, but I would like to draw attention to one point and that is, that the scale of preferences has been so regulated as to give the maximum benefit to the agriculturists, not only in the Agreement itself, but also in the Schedule to the Tariff Act which is soon to be introduced into this House. For instance, one of the most salutary scales of preferences given under this Agreement seems to me to be the 15 per cent. given on vegetable oils. This would prevent the oil-seeds from being exported to foreign countries as they have hitherto been in large quantities with the result that oil-cake will remain in the country to serve as fertilisers. It has been said that with the export of the oil-seeds the life-blood of the soil

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of this country was being exported. By means of this increased preference, one of the consequences will be that fertilisers will remain in this country. Similarly, to prevent competition from Java and Sumatra in connection with cardamoms, kassia, cinnamon, cloves, and other spices, severe competition in which was, I think, brought to the notice of this Assembly some time ago, provision is made that the preferences with regard to these spices should be given not by lowering by five per cent. the ordinary preference with regard to Empire countries and by raising it by five per cent. in the case of non-Empire countries, but by maintaining the present rate of duties as against the Empire countries and raising it to 7½ per cent. with regard to non-Empire countries. Sir, I do not wish to expatiate, because my time is very short, on the advantages which this Agreement secures to the agriculturist, but one point I should like to bring to the notice of this House, and that is this, that the agriculturist throughout India just now is passing through a period of unexampled depression. Most of the prices of agricultural produce have fallen below the cost of production. From a perusal of the Review of Trade for the year 1980-81, I find that the loss in the export trade, that is to say, the loss to the agriculturist in the year 1980-81 amounted to 34½ crores under jute, Rs. 18½ crores under cotton, and Rs. 9 crores under oil-seeds, the total loss being Rs. 62 crores in these products alone and in respect of all the other agricultural products the total loss in value amounted to Rs. 90 crores. Thus, while the prices realised from the sale of these crops shrank to that extent and the income was reduced to less than half, the money payments to be made by the agriculturist remained the same,—that is, his money payments in assessments, his money payments in rent, his money payments in various cesses and his money payments in interest on the debts with which he is loaded. Meanwhile, in order to satisfy the industrialist, a 50 per cent. duty has been levied on the scanty articles of clothing he requires to purchase—25 per cent. on . . . . .

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member's time is up.

**Dr. F. X. DeSouza:** All that I wish to say in conclusion is that it is absolutely necessary now to come to the aid of the agriculturist, and, therefore, in the interests of agriculture, I ask this House to ratify this Agreement.

**Mr. Nabakumar Sing Dudhoria** (Calcutta Suburbs: Non-Muhammadian Urban): Sir, really speaking, between the two Reports we are placed between two cross-fires. One set recommend us to accept the Agreement outright for three years tentatively, without putting forward sufficiently cogent reasons, except their cool collective assertion that it would be to the ultimate benefit of the country. The other tell us not to ratify it till the situation, that would arise therefrom, has been fully explored by a competent body, and adduces sufficiently good reasons in support of their proposition. We are thus at a loss as to what attitude we should take up in these circumstances.

On the other hand, Sir, all manner of people within the country consider the Agreement as an one-sided affair and an ominous bargain. The fact that it lays down the principle of reciprocity and also concedes

the right of denouncing it in case it works injuriously to India's interests does not at all prove its utility to her. We know from our practical experience that there is always a world of difference between a desire to repeal a law and the accomplishment of such a desire. Once a legislation is placed on the Statute-book, great is the difficulty to repeal it. Under the present constitution, as we all know, any measure that contemplates to repeal any existing legislation has to overcome so many difficulties in the way. It has first to obtain the consent of the Governor General before it can be actually introduced. If it succeeds there and, again, in passing through the Assembly, it has still to pass through the Council of State, and even if that be accomplished somehow, the Governor General still has the power to veto it. So to scrap the Agreement after it has once found a place on the Statute-book will not be an altogether easy affair. I should think, therefore, that this important constitutional aspect underlying the recommendation of the report by the Majority has either been conveniently overlooked or entirely lost sight of by them.

Sir, for a large number of commodities which India supplies to Great Britain, she holds a sort of monopoly or semi-monopoly in the British market and Britain cannot possibly take up any aggressive step against her without serious injury to her own industries also. Supposing she did so, it was also open to India to act in economic self-defence. But what will happen now? Non-Empire countries will now retaliate, as sixty per cent. of our foreign trade is with non-Empire countries. There is, therefore, the prospect of a larger loss to India in case those other countries retaliate against her.

From the point of view of Great Britain, again, there is no doubt that the Agreement will be of immense advantage to her. Her share of the Indian import trade which was about 63 per cent. before the War has now gone down to about 37 per cent. and her position would be much better if she could recover a large part of this lost ground. But from the point of view of India, there is little reason to hope for any considerable increase in her export trade with Great Britain where the population has remained stationary for about a decade. The English and the Empire markets have been purchasing India's exports practically at a uniformly constant or even diminishing rate for years past and the total value of our foreign trade with them has actually gone down. India cannot have an expanding market in Great Britain even if the demand of the latter should increase, because the advantage which the scheme extends to India will also go to the Dominions whose exports will compete with Indian exports in the British market. India's export trade is widely distributed, and in view of the fact that Great Britain is not an expanding market, the utility of the Indo-British Agreement is at best doubtful from India's point of view, especially when there is the possibility of retaliation on the part of our non-Empire customers.

Mr. Chetty, one of the distinguished Indian Delegates to the Ottawa Conference, evaded the question of retaliation on the part of non-Empire countries. He said that that aspect of the Ottawa Agreement applied not only to India, but to Britain and other Empire countries also, for the volume of export trade of Britain with the foreign countries was much greater than her trade with the Empire countries, and that if foreign countries retaliated against all parties to the Ottawa Agreement, England probably would be the one country that would suffer most by such a step. This comparison between India and England is distinctly irrelevant as



[Mr. Nubakumar Sing Dudhoria.]

England can easily do in her own economic interests what India cannot do. The nature of the two countries is in fact different and England can find an expanding market in India for her goods, but the share of India's export trade which England can purchase is not likely to increase.

Let us now examine what India has to gain by the proposed preference. The commodities on which we are to get preference are tea, manufactured jute, tanned hides and skins, ground-nuts, linseeds and other seeds, rice and other food grains, manures, coffee, tobacco, spices, shellac, linseed oil, vegetable oils, sandal oil, oil cakes, cotton manufactures, coir manufactures, carpets and rugs, pig lead and pig iron, etc. These commodities roughly amount to 40 crores of rupees and we thus get preference on our exports to the extent of about Rs. 40 crores. Nearly the same amount is represented on the imports side on which we allow preference to Great Britain. Apparently, therefore, the transaction seems to be fair and equitable. But a careful scrutiny has shown that all concessions offered to India are more or less illusory, but those allowed by India to Great Britain are substantial.

To come to the other side of the question and to consider Britain's gain, one will be struck by the wide range of commodities on which we give preference and the extent of the benefit going to England. We get preference of goods which do not compete with British goods, but the articles on which we give preference will cause a direct competition with our own indigenous products. We grant preference on cotton piecegoods which alone constitute about 16 crores. Iron and steel are already on the preference list and hardware and building materials will also compete with indigenous products. Chemicals and drugs and paper and stationery come in direct competition with our home-made goods and preference on soap and toilet manufactures will hit our cottage industry quite hard. These commodities amount to about 27 crores and in them we shall feel direct competition. Thus preference seems to have been granted indiscriminately without keeping in view the fact that it should have been limited to those commodities alone which cannot be easily and profitably produced in India, and on which preference would not impose too great a burden on the consumer.

Again, Sir, preference should have been limited to a small number of articles. Thus the Fiscal Commission rightly remarked when it said:

"The commodities selected must be as far as possible those in which British manufactures already held an important part of the market and in which the grant of preference is likely to develop rapidly the portion of the market that they will command, so that the burden on the consumer will be removed at an early date."

But the Ottawa Agreement fails to satisfy this test also so wisely laid down by the Fiscal Commission.

Mr. Lloyd George, in an article contributed by him to the *Manchester Guardian*, just after the Ottawa business was over, summed up the position resulting out of the Ottawa Pact in these words:

"There is little prospect of any marked addition to British prosperity as a result of the close-fisted huckstering and haggling of the Conference. The Commerce of Britain, imports and exports with the United States of America, the Argentine, Holland and Russia will sustain serious impediments. That may do some damage to the trade of these countries. But Britain, the international trader, must be hit much harder . . . Ottawa will not help world trade to recover its resilience. It might

well constitute an additional hindrance in the way of such recovery. It will not remove existing restrictions, but will add many. . . Those whom the Gods wish to destroy, they first make mad. The world has been bitten with the rabies of national exclusiveness, and Ottawa has proved to be no Pasteur Institute."

We must not ignore also the fact that six of the well-known Liberal Members have resigned their seats in the Parliament on five main objections to the Ottawa Agreement. Their objections are: First, that the whole policy of hard bargaining on trade matters is wrong. Secondly, that the Agreements include an undertaking that the British Parliament will not reduce certain duties on articles imported from foreign countries during a term of years without the consent of the Dominion Governments. They say that apart from the question of whether any Government is entitled to give such an undertaking, Parliament itself cannot properly enact a Statute of this nature. Thirdly, that the World Economic Conference is about to meet and it is essential that Britain should be free to enter into any agreements that are practicable and advantageous for the expansion of her trade with foreign countries. Fourthly, that the Tariff concessions to be made by Dominions and India will undoubtedly benefit some branches of "our trade", but these advantages will not make a substantial difference to the number of the unemployed. Moreover, most of the reductions are hedged round with conditions and qualifications that make them very problematical. Fifthly, that a series of taxes and quota restrictions on a long range of foodstuffs and raw materials are to be imposed or made permanent and the freedom of these commodities from taxation and restrictions is vital to the welfare of the working classes. Thus, Sir, it is manifest that the Agreement has been considered of somewhat doubtful merits even by responsible persons in the United Kingdom. India, which is yet under the leading strings of England and enjoys fiscal autonomy in name only, may have just grounds for her suspicion but, Sir, on the eve of fresh constitutional advance, we can and ought to accept the Agreement as an experimental measure, only for three years, by way of a friendly gesture to England and in order to show her our friendship and goodwill in her hour of need, as we cannot be indifferent to her welfare. But, Sir, I am entirely opposed to the proposal for the formation of an *ad interim* Inquiry Committee of the Assembly for quite obvious reasons. I should fight shy of that proposition lest my honourable colleagues should be ultimately besmirched, for reason or no reason, by direct or indirect considerations for vested interests in the course of their task. After all, Sir, they are frail human beings.

**Sardar Sant Singh:** Sir, we find ourselves in a very unenviable position today. When the Resolution was placed for discussion on the first day we supported the amendment of my friend, Dr. Ziauddin, because there was a clear divergence of opinion on the merits of this Agreement. The advocates of the Agreement were praising it to the skies while the whole press of India vehemently denounced it and the commercial interests condemned it with a singular unanimity. Under such circumstances, the only right course open for those of us who had not made up their minds one way or the other, was to appoint a Committee to examine the Agreement and its probable effects on Indian trade and industries and report to this House. The considerations that influenced our course of action were the following. Firstly, we suspected that the Agreement was imposed upon India from above and, secondly, the way in which the negotiations were carried on by the Government of India to partake in the

[Sardar Sant Singh.]

proposed conference gave rise to justifiable fears. This House was in Session then and, as has happened before, this House was completely ignored, if not deliberately kept in the dark, as to the course the negotiations were taking. The Delegates were nominated without consulting or even making reference to the interests likely to be affected by the proposed arrangement. In such circumstances, it was but natural for us to look upon this Agreement with suspicion. The Government of India cannot escape this criticism that they did not care to consult those interests which were to be vitally affected, specially so when the whole previous policy of the Government of India, laid down since the time of Lord Curzon, was to be radically altered in consequence of this conference. It was only fair to us that the scheme should have been made public then and vital interests consulted before any commitments were made by agreeing to send Delegates to the Ottawa Conference. Such was the position, Sir, when we agreed to appoint a Committee to go into the question and give us the benefit of their inquiries. We wanted a report, a convincing report based on the rock of solid facts and figures throwing more light on the subject. But, instead, we find the Committee side tracking the whole issue. Obviously the Committee has not carried out the mandate of this House. On the contrary, they have gone there and finding that the examination of materials is a tedious affair and a strain on the nerve, opened negotiations with the Government. In place of confirming a five years' Agreement they propose that we should accept "three years" with the proviso of a Vigilant Committee.

**Sir Hari Singh Gour:** There was no five years' Agreement at all.

**Sardar Sant Singh:** If it was not for five years, it was for an indefinite period, and the advantage they want to point out is that they have limited it to three years. But that does not make any difference in my argument. What I want to know is, whether this Agreement will be for the benefit of India? That is the main question and that was the question. To this question, we get the reply "they cannot say". If they cannot say anything definitely and if they want to take a leap in the dark, as some of the advocates of this present compromise have stated, then I request my friends to tell us what their reasons are for asking the whole country to plunge into a black gulf from which probably there may be no escape. What I cannot understand is this: the whole country is against this Agreement; the commercial interests are against it. My friend, the Deputy Leader, asked me how did I know it. I ask him, what did he know by examining four experts and what were their conclusions? It is for him to know that. We did not have the privilege of looking into that evidence. At the same time, the investigations of this Committee were carried on *in camera*. But my point is that the whole country is against it; trades and industries are against it and the agriculturists are against it. I ask, why should they take upon themselves the odium of the whole country and why should they advise the whole country to plunge into this venture without having themselves arrived at conclusions which will be definite, conclusive and convincing? There is no sense in such a Report. Suppose the country is in the wrong. Has not the country a right to make a mistake? By this Agreement they want to unsettle the whole course of the established trade. They want to do it on a doubtful advantage of having secured a Committee of Watch and Ward which will watch the results of this new

venture. My submission is that this is not the way in which trade interests are to be guided or protected. It is preposterous that instead of giving us their conclusions they want to make an experiment and give their conclusions, after having made that experiment." That is a position which no sane man can accept. As regards the particular interests which I represent in this House, namely, the Punjab agricultural interests, I have to say a few words about wheat and cotton which are the two principal commodities affected thereby. Here I am on a firmer ground. Both the Majority and Minority Reports are agreed on this that Punjab wheat cannot profit by this preference.

The Honourable Mr. Burt tried to make out that they have vast fields yet open to cultivation, and my friend, Dr. Ziauddin, said that there was plenty of land still lying vacant to be cultivated and there was a vast field of expansion of production. This is so. But both of them ignore that one important factor and that really counts, I mean the cost of production and its relation to the ultimate price of wheat in this country.

**Dr. Ziauddin Ahmad:** If it is profitable, I said.

**Sardar Sant Singh:** Yes. The cost of production, so far as the Punjab is concerned, is about Rs. 3 per maund and here too there is hardly any margin for profit, to the cultivator. It is said in the Report that if the Sukkur Barrage comes into operation, that will promote production. Supposing that happens, shall we be able to export wheat in competition with Australia and Canada? Even if we succeed, which is highly improbable, then we will have to compete with the rest of the wheat producing countries, for a condition laid down in the Agreement itself will have to be satisfied. The United Kingdom will purchase our wheat only if it is sold at the world market prices. In such conditions, India cannot export any wheat during the proposed three years of the Agreement. It does not profit the growers. Then remains cotton, the only commodity which brings some money to the cultivators. In that commodity, the United Kingdom has refused to give any preference. The argument has been accepted by our delegates that they cannot be forced into an Agreement for giving preference to Indian cotton. The reason given is that long and medium staple cotton is not grown in India. The promise made is that steps will be taken to promote the development and production of long and medium staple cotton in the Punjab and elsewhere. In this respect, I say, Sir, that here was the case of this commodity where the United Kingdom was called upon to make some sacrifice for the benefits that she was getting from Indian preferences; but she refused; she would not listen to it and turned down the proposal. We are going to be fed upon mere promises of future marketing, and so forth. May I ask my friends whether if medium and long staple cotton begins to be cultivated by the cultivators, will it not first of all be supplied to the Indian industries themselves? Will it not be possible for the Indian textile mills to absorb all the cotton that can be grown within three years, even if it be possible to reach the illiterate cultivators to take to this particular cotton. My submission is, that this promised advantage given by the United Kingdom is a mere illusion. If we succeed in growing that cotton, it will not be sufficient for the requirements of India herself. The cultivators will not profit by it. Then there is another reason. Japan is the principal buyer of our cotton. When I recently visited Lyalpur

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I made inquiries of the ginning factories from the cultivators. The result of my inquiries has been that the prices are steadily going down. One of the reasons being that Japanese firms are declining to do any business in the Indian cotton till this Ottawa Agreement is disposed of. The cultivator is benefited if the price of the cotton be high at this time when he markets it; later on, it may benefit the middleman, but not the cultivator. The cultivator stands to gain now if the prices go up; but, instead, they are going down. My friend, Nawab Sir Zulfikar Ali Khan, who represented the Punjab Agriculture on the Committee has signed the Majority Report under the impression probably that certain facilities will be allowed to Punjab wheat so that Punjab wheat may be able to compete with Canada and Australia in the United Kingdom markets. He is entirely mistaken in that view. The three conditions laid down by the Nawab Sahib are the reduction in railway freight, reduction in the water rate charges and reduction in shipping freight. Take the first condition. The water rate is a transferred subject. Irrigation is a transferred subject and the Government of India have got no control over the reduction. As for railway freight, several complications are likely to arise if such a commodity as wheat establishes a claim for cheap freight: it is possible that other agricultural commodities will put forward such a claim and probably the railways will not be able to meet them. Under the circumstances, these conditions will not be fulfilled and I do not know in what way he expects his wheat to go up in price. With these words, I oppose the amendment.

The Assembly then adjourned till Eleven of the Clock on Tuesday, the 6th December, 1932.

# LEGISLATIVE ASSEMBLY.

*Tuesday, 6th December, 1932.*

The Assembly met in the Assembly Chamber of the Council House at Eleven of the Clock, Mr. President (The Honourable Sir Ibrahim Rahimtoola) in the Chair.

## MEMBER SWORN.

Mr. David George Mitchell, C.S.I., C.I.E., M.L.A. (Secretary, Legislative Department).

## QUESTIONS AND ANSWERS.

### DESIRABILITY FOR EFFECTING ECONOMY IN CANTONMENTS OF THE SOUTHERN COMMAND.

1592. \***Sardar Sant Singh** (on behalf of Sirdar Sohan Singh): (a) Is it a fact that the General Officer Commanding-in-Chief, Southern Command has impressed upon all Cantonment Authorities under his Command, the desirability for effecting economy by reduction of surplus establishment and by making new appointments on reduced salaries in case of Cantonment Fund employees?

(b) If the answer to the above question be in the affirmative, will Government be pleased to furnish a statement showing in detail the way in which these instructions have been carried out till now in each of the following Cantonments with a view to make them self-supporting:

1. Ahmednagar. 2. Belgaum. 3. Deolali. 4. Mhow. 5. Neemuch. 6. Poona. 7. Ahmedabad. 8. Baroda. 9. Pachmarhi. 10. Kamptee?

**Mr. G. R. F. Tottenham:** I have called for a report and will lay a reply on the table in due course.

### CANTONMENTS IN THE SOUTHERN COMMAND WITH AND WITHOUT DEFICIT BUDGETS.

1593. \***Sardar Sant Singh** (on behalf of Sirdar Sohan Singh): Will Government be pleased to state the names of those Cantonments and particularly the smaller ones in the Southern Command, which have no deficit budgets and also those which have deficit budgets owing to the withdrawal of Government grants?

**Mr. G. R. F. Tottenham:** The Honourable Member appears to be under a misapprehension: no budget deficit is left uncovered. Baroda and Santa Cruz receive grants-in-aid from Army Estimates while Secunderabad and Aurungabad receive subventions from the local Abkari funds. All other Cantonments in the Command are self-supporting.

### ECONOMY AND RETRENCHMENT IN CANTONMENTS BY THE GRANT OF ELECTED BOARDS.

1594. **\*Sardar Sant Singh** (on behalf of Sirdar Sohan Singh). Have Government considered whether the desired economy and retrenchment could be best attained in small Cantonments, if they are granted elected boards wherever the civil population is 2,500 or more?

**Mr. G. R. F. Tottenham:** The Government have no reason to believe that the constitution of elected boards in small Cantonments would secure any economy.

### REFUSAL OF AN ELECTED BOARD TO THE BARODA CANTONMENT.

1595. **\*Sardar Sant Singh** (on behalf of Sirdar Sohan Singh): (a) Is it a fact that the civil population of Baroda Cantonment numbering 2,585 was refused a Board on the grounds that this civil population is composed of "troops' families and persons of the menial and follower classes with the exception of a few Baroda State officials or pensioners and Mission boys who visit the Cantonment for training purposes"?

(b) If so, will Government be pleased to state the total number of Troops' families, followers and menial classes, which is alleged to form part of the civil population (2,585) in the Baroda Cantonment? Are Government prepared to reconsider the decision if the grounds assigned for the refusal of a Board are found to be at variance with actual facts?

**Mr. G. R. F. Tottenham:** (a) Yes.

(b) I have called for detailed information and will lay a reply on the table in due course.

### EXECUTIVE OFFICERS AND SENIOR MEDICAL OFFICERS IN CANTONMENTS PAID BY GOVERNMENT.

1596. **\*Sardar Sant Singh** (on behalf of Sirdar Sohan Singh): (a) Is it a fact that in some Cantonments, the Executive Officers and Senior Medical Officers are paid by Government and not out of the Cantonment funds?

(b) If the answer to the above question be in the affirmative, will Government be pleased to furnish a statement of those Cantonments, in which the Executive Officers are paid by Government and no allowance is paid to the Senior Medical Officers for supervising the Cantonment Dispensaries?

**Mr. G. R. F. Tottenham:** (a) Yes.

(b) I presume that when referring to Senior Medical Officers the Honourable Member is thinking of Officers of the Indian Medical Service or Royal Army Medical Corps. All such officers in charge of Cantonment Hospitals receive an allowance from Cantonment funds.

### HIGHER SALARIES DRAWN BY THE STAFF OF THE BARODA CANTONMENT.

1597. **\*Sardar Sant Singh** (on behalf of Sirdar Sohan Singh): (a) Are Government aware that though the Baroda Cantonment is comparatively much smaller as regards population, area, income, and work than a number

of other cantonments, its office staff are drawing salaries decidedly higher than what the staff in other cantonments do?

(b) Are Government aware that in the Baroda Cantonment before 1920 its Head Clerk had to perform fairly heavy criminal and civil judicial work over and above the cantonment fund work on a salary ranging from Rs. 40 to Rs. 80 per month and is it a fact that this salary was at once raised to Rs. 150 about 1920? If so, why? Is it a fact that since 1924 the Head Clerk and other clerks, etc., were relieved of the heavy judicial work on its transfer to the Residency Office and the cost of living has now gone down to the pre-war level and that the Head Clerk, Tax Collector and Sanitary Supervisor are still drawing the increased salaries and allowances?

**Mr. G. R. F. Tottenham:** I have called for a report and will lay a reply on the table in due course.

**COMPETITION OF AMERICAN FRUITS WITH THE KULU VALLEY FRUITS.**

1598. **\*Mr. K. P. Thampan** (on behalf of Mr. Jagan Nath Aggarwal):

(a) Are Government aware that fruit growers in the Kulu valley have suffered considerably of late owing to the Indian markets being flooded with American fruits and that the latter are competing successfully with them?

(b) Are Government aware that this is due to great increase in postal charges during recent years?

(c) Is it a fact that the only route from Kulu to Pathankot is *via* Mandi State and that in that State there is a monopoly for motor lorries and a toll is levied on all heavy and light cars passing through the State?

(d) Are Government aware that fruit growers have no other means of transportation and that the fruit industry is suffering heavily on account of toll-charges and monopoly of motor traffic on the said road?

(e) Is it a fact that postal charges on fruit parcels were raised in 1920-21 by 25 per cent. and in 1931 by another 25 per cent. making an increase of 50 per cent. on the whole?

(f) If the answers to the above are in the affirmative, are Government prepared to take steps to relieve the distress of Kulu fruit growers? If so, what?

**Mr. T. Ryan:** Enquiries are being made and a reply will be placed on the table in due course.

**DEPORTATION OF MR. RANBIR SINGH.**

1599. **\*Mr. K. P. Thampan** (on behalf of Mr. Jagan Nath Aggarwal):

(a) Are Government aware that Ranbir Singh, B.A., son of L. Khushal Chand, Editor of the daily *Milap*, Lahore, was arrested on 21st September, 1932, under Emergency Powers Ordinance Section 3 for a period of two months which was to expire on 20th November, 1932?

(b) Is it a fact that at about 9 P.M. on the night of the 19th November, 1932, he was taken away from Lahore Fort, where he was detained, to Lahore Cantonment Railway Station and thence has been taken to an unknown destination?

(c) Is it a fact that he has been deported under Regulation III of 1818? If so, will Government be pleased to state the reasons for taking this step against him?



(d) For how long is he to be kept in detention? What allowance has been fixed for him and will he be allowed to carry on his studies and literary pursuits during his deportation?

**The Honourable Mr. H. G. Haig:** (a) Yes.

(b) and (c). He has been detained under Regulation III of 1818 for reasons of State which I am not prepared to make public.

(d) I would refer the Honourable Member to the reply given by me on the 5th December to parts (c) and (d) of Bhai Parina Nand's question No. 1549 on the same subject.

#### MEETINGS HELD IN LAHORE IN CONNECTION WITH THE REMOVAL OF UNTOUCHABILITY.

1600. \***Mr. K. P. Thampan** (on behalf of Mr. Jagan Nath Aggarwal): (a) With reference to the answer given by Government to a question by Mr. Gaya Prasad Singh on the 14th November, 1932, that the question of removal of untouchability had nothing to do with politics and that it was a question of moral and religious reform, are Government aware that meetings held in Lahore in connection with the fast of Mahatma Gandhi relating to the question of the removal of untouchability were treated as political meetings?

(b) Are Government aware that certain gentlemen, *viz.*, Messrs. A. C. Bali, Hem Raj, Gurbux Rai, Kalyan Das, and Master Jassu Ram have been arrested for taking part in those meetings, though the notices served on them under section 4 of the Special Powers Ordinance allowed them to take part in purely religious processions or meetings?

(c) Are Government prepared to take any steps in the matter?

**The Honourable Mr. H. G. Haig:** I have no information but have made enquiries and will lay a statement on the table in due course.

#### PROVISION OF PROPER DRAINAGE IN KAROL BAGH, DELHI.

1601. \***Shaikh Fazal Haq Piracha:** (a) Will Government please refer to the portion quoted below of Mr. Bajpai's reply on the 24th March, 1932 to the starred question No. 957 by Mr. S. C. Mitra in regard to the lack of drainage in Karol Bagh?

"... Meanwhile everything that can be done with available resources is being done to ameliorate the conditions of life there. . . ."

(b) Are Government aware that the lane in Karol Bagh lying to the south of plots Nos. 25 and 26, Block B.D., on the Khajoorwala Road is in a most insanitary condition?

(c) Are Government aware that the owner of these plots has repeatedly represented to the Delhi Municipality to do something to ameliorate the condition there, that the Health Officer of the Municipality has visited the site for a number of times but that the Municipality have expressed their inability for the present to take any action in that connection stating that "the attention of Government, to whom this estate belongs, has repeatedly been drawn to the absence of drains and as soon as the Government of India are in a position to provide funds, suitable steps will immediately be taken to remove the cause of complaint"?

(d) Are Government aware that the matter represented did not necessarily involve the drainage scheme as a whole?

(e) Do Government intend to ascertain from the Municipality why they have taken no action in regard to the drainage of the lane, or do Government intend to undertake to provide proper drainage themselves?

**Mr. G. S. Bajpai:** Enquiries have been made and the information will be furnished to the House in due course.

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RESOLUTION *RE* TRADE AGREEMENT SIGNED AT OTTAWA—  
*concl'd.*

**Sir Abdur Rahim** (Calcutta and Suburbs: Muhammadan Urban): Mr. President, we all feel that this is the most momentous question that has ever been brought before this Assembly or any other Legislature in this country for a long time. Some of us feel very strongly on the point and are convinced that this Agreement is not in the economic interests of this country. I am conscious, Sir, that opinion is greatly divided in this House. The Government will secure a very large support for this Agreement, larger support than they have ever been able to secure on any other question that has agitated the public mind in the country.

**Sir Muhammad Yakub** (Rohilkund and Kumaon Divisions: Muhammadan Rural): Hear, hear.

**Sir Abdur Rahim:** My friend, Sir Muhammad Yakub, says "Hear, hear", but he always supports the Government and, therefore, his voice does not count.

**Sir Muhammad Yakub:** You have supported the Government for a much longer time than I do now.

**An Honourable Member:** Both of you sail in the same boat.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Order, order.

**Sir Abdur Rahim:** Sir, I supported the Government in all matters in which I thought Government were right when I was a Member of the Bengal Government, but whenever I thought that Government were in the wrong and I was free to vote as a Non-Official Member of this House or of the Bengal Legislative Council, I never had any hesitation in opposing the Government tooth and nail (Applause from the Opposition Benches), and if my friend, Sir Muhammad Yakub, is so curious, I would ask him to look into the records of the Cabinet of the Bengal Government and he will find that even inside that Government I never hesitated to vote against the majority if I thought I was right. (Applause from the Opposition Benches.)

Sir, it has been said that I am implacable in my opposition to this Ottawa Scheme. I do consider it, and I did consider it, as soon as I read the Report of the Delegation, that it was a pure and simple gamble playing with the economic fate of millions of people of this country, and,

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on that ground, I felt from the very beginning that unless we made a further study, unless we made a most extensive investigation into the various interests affected, it would be my duty to oppose this Agreement tooth and nail. I know, as I have said, Government will have a large majority to support this scheme, a scheme which is not theirs, but which has been thrust upon India by the British Government to which this Government are subordinate. The Government of India were not at liberty, even if they wanted to reject this Agreement, to do so, and that explains the peculiar procedure that was adopted in this case, different from the procedure adopted with respect to the self-Governing Colonies. I have alluded to that in my speech on the previous occasion and read out a passage from Mr. Stanley Baldwin's speech in support of my contention. Indeed, the Government of India's procedure struck me as very peculiar, because of the speech of Mr. Stanley Baldwin. So far as the Government of India are concerned, therefore, though I attach great value to their opinion in many matters, in this matter I am unable to attach any value to the Government of India's opinion whatever. Sir, I am also aware, and I admit frankly that not only numerically they will have a large number of votes even from this side of the House, but I am fully conscious that votes have different moral values on different occasions. For instance, if my Honourable friend, Mr. Arthur Moore, the Leader of the European Group, will vote with us tomorrow on the Ordinance Bill, and so also Mr. Ramsay Scott, and Mr. Morgan, I would consider that a very great triumph indeed for us even if a majority of votes be in favour of the Government. Similarly, I do not wish to discount the fact, nor can I do so, that Government on this occasion will have the votes of my Honourable friend, Dr. Ziauddin Ahmad—I do not find him here,—of Mr. Mody, of Sir Hari Singh Gour, and Mr. Ranga Iyer. (*An Honourable Member*: "Haji Abdoola Haroon.") Sir, he and Mr. Chetty were members of the Delegation and, therefore, I did not mention their names. I have no doubt that the votes of these gentlemen and some others who may perhaps follow them will be made very much of by the Government, by the British Conservative Government who have put forward this scheme—a scheme which they have been pursuing ever since the days of Joseph Chamberlain.

Now, let me deal with some of the speakers. I am sorry that my Honourable friend, Mr. Morgan, is not in his seat, because he charged the authors of the Minority Report, my Honourable friend, Mr. Raju, Diwan Bahadur Harbilas Sarda and myself, with having been influenced by political prejudices against Britain. I repudiate that charge as false and unfounded. (Cheers from the Nationalist and Independent Benches); the very passage he quoted from the Minority Report belied that charge. I am sorry that the Honourable Member whom I know well—and he is a very mild mannered gentleman indeed—should have been carried away by his enthusiasm for Empire preference to lay this charge against us,—a charge either by way of propaganda or arising out of racial pride. Sir, he told us that the jute mills were doing very badly; a number of looms were sealed; and he expected that preference to jute manufactures would help the industry. He is a business man; I believe he is connected with the jute business, and he is entitled to his opinion. But I know this, that even in the most flourishing days of the jute industry, the poor growers of jute, my own countrymen in Bengal, did not benefit much

by it. And that is exactly the position now. The jute producers of East Bengal, who toil all day and night to grow this commodity,—are they going to benefit? From past experience I say that they will not; they are as likely to lose as to benefit. If they benefit at all, it will be so little that it can very well be neglected.

Now, I come to my Honourable friend, Mr. Mody. Sir, when I listened to him, it seemed to me that he was so excited with joy over this Agreement that he lost that calm demeanour which always characterises him. I am not a business man and I have not a business man's mentality; but there must be something very valuable in the Report or behind it which excited him and caused so much elation in my Honourable friend, Mr. Mody. I will not try to fling at him what he said on the previous occasion in this House. He is perfectly entitled, on further investigation, after the intensive study which he gave to this question during the six days that we sat—during three days of which he was absent—(Laughter)

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**Mr. H. P. Mody** (Bombay Millowners' Association: Indian Commerce): Was I? No, Sir. On a point of explanation, may I say that I was only away just one day and no more, and that was a Saturday.

**Sir Abdur Rahim**: He was away from Delhi I think for two or three days.

**Mr. H. P. Mody**: That does not mean being away from the Committee.

**Sir Abdur Rahim**: I take it that he was continuing his study in the train. (Laughter.) He is overjoyed at the prospect of Indian producers of raw products capturing the British market, monopolising the British market. It almost seemed that his mouth watered at that prospect. May I put to him one question? Is it so easy, a business man as he is, to capture markets? What about his own industry, the cotton mill industry of Bombay? He is the Chairman of the Millowners' Association; he is their representative here and their spokesman. Has he not been seeking protection after protection for his own industry, even though so well organised, so largely supplied with capital? If that be so, is it sober judgment for any one to say that the poor starving agriculturist of India, unorganised, illiterate, a prey to middlemen—that he is in a position to capture within the space of three years the British market with his raw product? Sir, it is beyond common sense to believe an assertion of this kind. Then, Mr. Mody, I am sorry, ridiculed us for showing so much interest in the fate of the industries of India. I was wondering at that time if it was not somewhat strange for the representative of the cotton industry of Bombay to ridicule, to hold in slight estimation the support of Members of this House. Why? Because Mr. Mody knows,—a shrewd business man as he is, he knows very well that this Assembly does not now count at all; that it is the Government that is the most powerful body; that it is the Treasury Benches that dominate this Assembly. Therefore, it is not us that he is out to placate. His interests lie in supporting the Government. It was very rightly pointed out by my Honourable friend, Mr. Ramsay Scott, whom I know very well, and I know to be a very candid and sincere man—he told us frankly that it is

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the powerful industries of iron and steel of the Tatas and the cotton mills of Bombay which alone can influence the Government, and can protect themselves, but our poor struggling industries have no voice with the Government, no influence with them at all. Sir, if you look at the Report of the Delegation which I shall presently refer to, this is absolutely clear. So far as textiles are concerned, the subject was under inquiry by the Tariff Board and the Report points out on page 14:

"It may be well to explain the reasons why we felt it impossible to include in Schedule F the goods separately listed in Schedule C. In principle, there is no objection to a preference on textile goods which are not subject to protective duties, but we felt it would not be right to commit the Government of India finally until the Report of the Tariff Board had been received and considered."

With regard to the steel industry, what was the procedure adopted? The Tariff Board's inquiry into the steel industry is not to come on until 1934. So what was done was this. A representative of the steel industry, if my information is correct and I have it on very good authority, was sent for post-haste to London so that he was in a position to arrange with the manufacturing houses of Britain and we know what the result of that negotiation is. I accept the word of Mr. Dalal who appeared before us that the Agreement they have been able to conclude is in the interests of his firm. I may mention by the by that he offered no opinion whatever on the Agreement as a whole. Only he said it was for the benefit of the steel industry. He further told us that the position of the firm with regard to pig iron was bad and, therefore, in order not to lose the British market for pig iron, he was compelled to enter into an arrangement with the British manufacturers with regard to galvanised sheets. But this sort of arrangement is at any rate not in accordance with the policy which this Assembly laid down with respect to the Tata Iron and Steel Industry when they gave protection. The arrangement is that they will make the bars and send them to Britain in order to convert them into galvanised sheets and then the British manufacturers will send them here to their agents for sale. The fate of the other industries was not taken into account at all, throughout the Delegation's Report. I do not find that even a list is given of the other industries which are trying to raise their heads in this country behind the shelter of the tariff revenue duties. In the Special Committee I asked for a list of those industries, but we have not received it yet and I believe such a list is not forthcoming. This is the position with reference to the industries which are not so well favoured and so influential as Mr. Mody's. With regard to the India industries generally, as I am on this subject I may point out before I pass on to the other speakers, that the question is disposed of in paragraph 39 of the Delegation's Report on page 15. It says that Article 14 gives us the chance to protect them as we like. Now let us see what Article 14 lays down: It says this:

"In the event of circumstances arising which in the opinion of either party necessitate a change in the rates of duty or margins of preference settled by the Agreement on any particular description of goods that party shall notify and consult with the other party with a view to adjustments being agreed upon. If no Agreement is reached within six months of the date of such notice, it shall then be open to the original party to give to the other party six months' notice of his intention to carry into effect the change desired in the rate of duty or margin of preference on goods of the description named in the original notice and to bring the revised rate or rates into operation at the expiration of this period."

Now, so far as I can judge, this Article is not at all explicit. It does enable India to negotiate with the British Government regarding any particular article if we wish to vary the rates of duty. That is an Article of very general application, but one would have expected that on a matter of this importance when we are entering into an Agreement which is bound to affect our growing industries and industries which have a chance of establishing themselves in the future, that there should be a provision in the Agreement to the effect that it shall not in any way interfere with the policy of discriminating protection which we have adopted. That policy was well known to the Delegation and the Government of India. Why was not an express clause to that effect put in in the Agreement? India's industrial condition is such that it is necessary that we shall give full effect to our policy of discriminating protection, and the Agreement should in no way stand in the way of the policy which we have adopted after very careful consideration and investigations and in order to effectuate which we have instituted a Tariff Board. I have gone through the Agreement time after time and I say, subject to correction, that there is no explicit provision with reference to this matter. At the beginning of the Schedule, it is mentioned that it will not affect the duties on certain classes of goods mentioned in the Tariff Act. That does not affect the position. We have no protective clause of a specific character. Now I come to my friend, Dr. Ziauddin Ahmad, who is still not here. (*A Voice*: "He is here.") I am glad he has come. He is a great mathematician and I have great respect for him and he is a valued friend of mine, but unfortunately figures have such a fascination for him that he is liable to overlook other considerations. Sir, from the very beginning of the deliberations of the Select Committee—I am disclosing no secret to which he can object—the balance-sheet had a great value in his eyes, and he had one prepared, but I find that even Mr. Burt—I was not here when he spoke but judging from the report I have seen of his speech in the papers—even he does not attach any value to the balance-sheet, and I do not think that any other signatories to the Majority Report have attached any value to the so-called balance-sheet. Obviously, then, Sir, whatever mathematical value the balance-sheet may have, it has no economic significance whatever. Dr. Ziauddin began by saying in his note that the whole Ottawa Scheme was a leap in the dark on the part of Great Britain and I think, in the course of his note, he also says that we are equally in the dark so far as the position of India is concerned; that is to say, both the sides are taking a leap in the dark.

**Dr. Ziauddin Ahmad** (United Provinces Southern Divisions: Muhammadan Rural): I never said that India was taking a leap in the dark.

**Sir Abdur Rahim**: This is the sentence I was thinking of:

"It is impossible to visualize at this stage, with the materials at our disposal, the effect of the Ottawa Agreement on agricultural products or on our industries and on the pockets of the consumers."

Now, Sir, only men with eyes can visualize, and if this is not a leap in the dark, I should like to know what is. That is the position of my friend, Dr. Ziauddin Ahmad, another signatory to the Majority Report. Now, my Honourable friend, Mr. Ramsay Scott, pointed out in very forcible language that the inquiry hitherto has been quite insufficient so far as the industrial position is concerned; but, like a true Briton, he is loyal to Empire preference.

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My friend, Mr. Sadiq Hasan, told us frankly that the carpet industry, in which he is very largely interested, is likely to benefit to some extent, but, like a true Indian patriot, he is prepared to sacrifice whatever probable benefit his own concern might derive, because, in his opinion, the larger interests of India were at stake. Now I come to my friend, Sir Hari Singh Gour. He attaches very great value to the safeguards that he has devised. Now I put it to him, if responsible Government is in store for us, say, at the end of one or two years, is any safeguard at all necessary? Absolutely not. Supposing we have no responsible Government under our next constitution, then in that case we have a vivid picture of this Assembly before us to guide us as to what the next Assembly will be like. Supposing there is a large block of nominated members,—nominated, as my friend points out, by the Princes—then I say that that Assembly will certainly not be better than the present one. Where then is the benefit or the value of that safeguard, if the Assembly itself is weak and is going to be dominated by nominated men? In that case, the Assembly will vote in favour of any scheme put forward by the then Government. He also said that acceptance of the Agreement would be a great gesture to the Round Table Conference, to Great Britain and to the Dominions. Sir, I entirely agree, yes. They are cogitating at the Round Table Conference over safeguards for trade relations, for trade and commerce of Great Britain, and the vote of the Assembly in favour of the Ottawa Scheme will give them the necessary model on which to base those safeguards, that is, a provision by which preference is to be given to British manufacturers, whatever the sacrifice that may be involved to Indian manufacturers. Sir Hari Singh Gour wound up by giving us a parody of Umar Khayyam that after having listened to the discussions and arguments in the Special Committee, he came out by the same door by which he had gone in. True, but he will walk now into a lobby different from what he would have otherwise gone into, and that is a great difference. Sir, the question under discussion is of very great importance; and I submit that having regard to the hurried and wholly insufficient inquiry we have had so far, we would not be justified in reversing our policy which has been established since the days of Lord Curzon. It was forcibly pointed out not only by Lord Curzon in 1903, and by the Fiscal Commission, but also by Sir Geoffrey Corbett at the last Imperial Conference in 1930, that it is not in the interests of India to embark upon any scheme of Imperial Preference. Any scheme like that is not for the benefit of India. Sir, are we justified, on the materials which have been furnished to us, to depart from a well-established policy like that? It obviously involves considerable risks to the future economic development of India and are we, as Members of this Assembly, in a position to say: "Yes, let us take our chance". Sir, I have been told that I am irreconcilable. I know the majority of this House favour the Ottawa Agreement, but I have the satisfaction of knowing that the country is behind me. (Applause.) Every opinion that has been expressed in the Press so far supports me. In the Special Committee itself we examined a number of witnesses and they were unanimously of the opinion that the Ottawa Agreement was not in the best interests of India. Sir, we went to that Committee for that very purpose, to obtain expert and business opinion, at least that was one principal object we had in view, and the advice that was given to us was entirely opposed to this scheme. Sir, there is no mention in the Majority Report even of the existence of

that evidence. Under these circumstances, I submit that it will be taking not only a plunge in the dark, but we shall be taking grave risks and, so far as I am concerned, I am certain that we shall be endangering the economic interests of India if we enter into an Agreement like this.

**\*Mr. R. K. Shanmukham Chetty** (Salem and Coimbatore *cum* North Arcot: Non-Muhammadian Rural): On the last occasion, Mr. President, my Honourable friend, Sir Abdur Rahim, levelled the charge that the procedure followed by the British Government in dealing with the Government of India in the matter of the Ottawa Conference was essentially different from the procedure followed with regard to the Dominions and he further stated that the Government of India were not free agents in dealing with the British Government at Ottawa. He reiterated that charge again this morning. I have the greatest respect for my friend, Sir Abdur Rahim, and I do not cast the slightest doubt on his sincerity, patriotism or public service and I hope one may confidently expect that a gentleman of his eminent position in public life would concede even to his opponents that same sincerity of purpose which we all recognise in him. I would respectfully tell him, Sir, that in this matter of procedure, at any rate, my Honourable friend is under a very serious misapprehension. As one who has taken part in the Ottawa discussions right from their very inception, let me assure my Honourable friend that the procedure followed in the discussions between the representatives of the British Government and the representatives of the Government of India was exactly the same as was followed between the representatives of the British Government and any other Dominions. My Honourable friend quoted a passage from the speech of Mr. Stanley Baldwin in support of his own contention. I am afraid, my Honourable friend has entirely misunderstood the purport of that passage.

**Sir Abdur Rahim:** It is plain English.

**Mr. R. K. Shanmukham Chetty:** What exactly happened with regard to the negotiations between the British Government and the Government of India was this. The Delegates of the Government of India met the Ottawa Committee of the British Cabinet in London during the second week of May and it was on that occasion that the speech to which my Honourable friend has alluded was made by Mr. Stanley Baldwin. Soon after the formal meeting with a special Committee of the British Cabinet, the British Government handed over to us as the representatives of the Government of India a schedule containing the list of commodities on which Great Britain would like to have a preferential treatment in the Indian market. Similar schedules were handed over to representatives of Dominion Governments. It is no doubt true that in the case of certain Dominions discussions had started at an earlier stage than when the discussion started with the Government of India, but that does not mean that there was any difference in the procedure between the British Government and the Government of India and that between the British Government and the Dominion Governments. In fact, even certain Dominion Governments like that of South Africa and Southern Rhodesia followed exactly the identical procedure that we of the Indian Delegation followed in London and it was later on recognised on all quarters that the concentration of discussion directly between the representatives of the various Governments at London was more conducive to expediting



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business than the discussion carried on by correspondence between certain Dominions and the British Government. Sir, I can assure my Honourable friend that in this matter there was not the slightest difference between the procedure followed between the British Government and the Government of India on the one hand and the British Government and the Dominion Governments on the other.

**Sardar Sant Singh** (West Punjab: Sikh): May I ask my Honourable friend at this stage whether the Dominion representatives consulted their commercial interests before going to London or not?

**Mr. R. K. Shanmukham Chetty:** Sir, my Honourable friend again stated that the Government of India were not free agents. I hope that I am not giving away any of the secrets if I were to tell this House what exactly took place in the negotiations between the Government of India and the British Government. Speaking with all the responsibility that I have and with full first hand knowledge of the entire negotiations, I can state with confidence that not merely were the Government of India free agents in this respect, but that the Delegates of the Government of India in London and Ottawa were, in the freest manner possible, free agents. (Applause.) When the Government of India Delegates got the schedules of the British Government, they began to examine them and, let me assure my Honourable friends in this House, that in every one of the proposals that were finally made by the Government of India Delegates, the proposals were initiated by the Delegates of the Government of India and accepted by the Government of India. I must acknowledge, Sir, the fullest liberty that the Government of India gave to their Delegates in this respect and I would be failing in my duty if I did not take an early opportunity of paying my tribute to the work especially of one in the Delegation to whose honesty of purpose the success of the Government of India Delegation was ultimately due. I mean the efforts of Sir George Rainy. (Applause.) Sir, while Sir George Rainy was a Member of the Government of India, we all recognised that he was one actuated by the highest motives and honesty of purpose. And after observing at close quarters the magnificent work that Sir George Rainy rendered for the cause of India for three months in London and Ottawa, I can say with the utmost confidence that, if there is one person about whose honesty of purpose I cannot have the slightest doubt, it is Sir George Rainy. I go further and say, that if Sir George Rainy were sent as a plenipotentiary of the Government of India to negotiate a commercial treaty with any country in the world, I would blind-folded sign that Agreement if Sir George Rainy were satisfied that the Agreement was justified. (Loud Applause.) Sir, as I observed the magnificent services that Sir George Rainy rendered to India during those three months I felt within myself that India could better be served by men with honesty of purpose combined with wisdom and knowledge than by men with blind patriotism combined with ignorance and prejudice.

Sir, in the short time at my disposal, I would refer only to one particular matter arising out of the report, a matter on which doubts have been cast by the Minority Report. I have always felt that if there is one part of the Agreement more than another about which there cannot be the slightest doubt that it is in the interest of India, it is the Supplementary Trade Agreement regarding iron and steel. And I was

rather surprised to find that even with regard to this Supplementary Agreement the Minority Members of the Special Committee were not prepared to concede that it was in the interest of India. They observe :

"We feel that the Legislature and the country will not feel happy over the fact that the Tata's have to send their sheet bars to Britain for the manufacture of galvanised sheets to be placed in the Indian market by their agents and the profits to be shared between the British manufacturers and Tata's."

I will attempt to explain very briefly the implications of this Supplementary Trade Agreement regarding iron and steel. This House has recognised now for some time that the Indian iron and steel industry is a great national asset and that it ought to be protected, and this House has amply protected this great national industry. At a very early stage in our deliberations in London, we found that negotiations were proceeding between the iron and steel manufacturers of the various countries in the British Empire with a view to arriving at some common scheme of industrial co-operation; and we found that in this matter at any rate we could conclude a bargain which will be distinctly to the advantage of the Indian iron and steel industry. But the scope of such an Agreement was necessarily very restricted. The Indian iron and steel industry is one of our great protected industries, and, in accordance with the principle that we kept before our minds during the whole course of discussions at London and Ottawa, we could not do anything which will detrimentally affect that scheme of protection. But we found that in the case of galvanised sheets, at any rate, there was scope for getting very effective help for the Indian iron and steel industry.

The position with regard to the Indian iron and steel industry is briefly this. When the Tariff Board recommended their scheme of protection, the Tariff Board calculated that the Tata Iron and Steel Company would be in a position to manufacture about 600,000 tons of iron and steel. In their calculation the Tariff Board took into account the fact that the Railway Administration in India would be in a position to place orders with Tata's for 200,000 tons of rails. The House knows that, as a result of the financial stringency, the Railway Board failed to place this expected order for 200,000 tons of rails with Tata's. The result has been that though the maximum capacity of Tata's to produce iron and steel is in the neighbourhood of 600,000 tons, they are today actually producing only about 100,000 tons; and it was this fall in the production which was not due to any causes for which Tata's are responsible that necessitated the grant of additional protection from time to time by this House. Now, we wanted to examine the question whether it would not be possible to open fresh outlets for increasing the production of Tata Iron and Steel Works, and we found that in the case of galvanised sheet there was scope for rendering such a help to the Tata Company.

The position about galvanised sheet is roughly this. In the year 1931-32, the consumption of galvanised sheet in India was approximately 113,000 tons. Of these, about 29,000 tons were made by Tata's and 84,000 tons were imported from abroad. We were told that, as a result of the extension of the galvanised plant, the Tata Company would be in a position to increase their output of galvanised sheet within the next few months to the extent of about 45,000 tons. We were further told that though the Tata Company had on hand schemes for installing two further units for converting sheet bar into galvanised sheets, it will be some time before these units came into effective operation.

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Now, it was under those circumstances, that we concluded the Supplementary Trade Agreement. What does that Agreement provide? That Agreement provides that the duty on galvanised sheets imported from abroad will be Rs. 83-12-0 as it is at present; the duty on galvanised sheet imported from the United Kingdom will be Rs. 53; and the duty on galvanised sheets made from Indian sheet bars and sent from the United Kingdom will be Rs. 30. In addition to this Trade Agreement that was made between the Government of India and the British Government, further business agreements have been made between the Tata Iron and Steel Company and the British manufacturers of iron and steel. Now, under this Agreement between the manufacturers of both countries, it is arranged that the Tata Company will send to England about 80,000 tons of sheet bars for conversion into galvanised sheets, and that these finished galvanised sheets will be sent back to India at the lower rate of duty, that is, Rs. 30 per ton. In addition, the Indian iron and steel manufacturers have been assured of a certain market for the Indian pig iron in the United Kingdom market. Sir, this arrangement will enable the Tata Iron and Steel Company to manufacture an additional 80,000 tons of sheet bar; in other words, they will be enabled, as a result of this Agreement, to increase their production of iron and steel from 400,000 tons to about 480,000 tons. And we naturally thought that to enable the Indian manufacturer to increase the production by about 80,000 tons would result not merely in a substantial profit to the Indian steel manufacturer, but that it would result in the lowering of the cost of production of all the 480,000 tons. Specially the arrangement with regard to the marketing of the Indian pig iron in the United Kingdom market is a very valuable feature of the Agreement. The blast furnace capacity in India is very considerable and we have depended on the Japanese market all these years, and that market we have lost. And this opening that has now been obtained in the United Kingdom market for a minimum of 70,000 tons of basic iron is one which will further help the Tata Company to reduce the cost of production. And, in these circumstances, Sir, we thought that this will not merely result in an immediate profit to the iron and steel manufacturer in India, but that when the next Statutory Inquiry comes, the total cost of production of the Tata Iron and Steel Works would be considerably lower than what it is at present.

It is these considerations that led us to conclude this Supplementary Trade Agreement; and let me once again remind Honourable Members that, so far as this part of the Trade Agreement is concerned, it is to remain in force only till the 31st March, 1934, when the Statutory Inquiry with regard to iron and steel will take place, after which we would be entirely at liberty to do what we consider to be the best in the interests of the country. I hope this explanation would enable Honourable Members to appreciate the true implications of this Supplementary Trade Agreement.

The time at my disposal would not permit me to touch on any other points. On the last occasion, I ventured to observe that when  
 12 Noon. this Trade Agreement comes to be examined in the pure light of reason, it would be found to be of some advantage to the primary producers of this country and I cannot make any secret of the fact that I am greatly elated at the fact that, as a result of a closer scrutiny of this Trade Agreement, a number of my colleagues on the Special Committee were convinced that this Agreement is really in the best interests of the country.

I do not in the least deny the contention of my Honourable friend, Sir Abdur Rahim, that he has got the country behind him in the opposition to this Agreement. I know that the great volume of opinion outside this House is with my Honourable friend, Sir Abdur Rahim; but I am also confident that if that great volume of opinion outside this House had an opportunity to examine this Agreement with the same amount of care with which my colleagues on the Special Committee examined it, they also would be converted in time to the view that I hold that this Agreement would be in the interests of India. But even if the majority outside this House were against this Trade Agreement, I would take consolation in the fact that on certain occasions at any rate one must choose between two alternatives, honesty and popularity; and in this I had not the slightest doubt in my mind what is the alternative that I ought to choose, and I am glad that in this I was able to carry a great many of my colleagues with me. And I would still feel the satisfaction that he is a slave who will not dare to be in the right with two or three. In this matter I feel a sense of satisfaction that I am in the right with at least some of my colleagues in this House who ought to know the full implications of this Agreement and that satisfaction I would continue to feel whatever may be the volume of opinion outside this House. (Cheers.)

**Mr. M. Maswood Ahmad** (Patna and Chota Nagpur *cum* Orissa: Muhammadan): Sir, I hope you will allow me to deal with the subject on items as well, because I did not open my mouth on the previous occasion, because I was not in sound health.

I hope you remember that I put several questions on the floor of the House on this subject of the Ottawa Agreement and the Honourable Member in charge replied that it was very difficult to collect all those figures and refused to reply in detail to those questions. I say that if to collect the figures and place them before the House was so difficult for Government, how was it, or is it possible for us Members on this side of the House to collect those figures from the Sea-borne trade and other reports. Apart from this, in the Supplementary Question I drew attention to some figures which I wanted and which it was not possible to collect from the books in the Library, and my Honourable friend, the Commerce Member, asked me to send him a letter about particular articles in which I would have been interested and then he would be ready to reply and to collect figures on these particular points for those particular articles. Sir, I thank him for that, but I was not interested in one particular item only; rather I was keen to know the figures for all the articles taken as a whole and I wanted to know the figures of all the commodities and all the subjects which were under the Trade Agreement. Sir, all my attempts failed and Government did not inform us what we wanted. They concealed the facts and figures from us. Further you are aware that even in the Committee stage the Members of the Committee were not in a position to get figures for all these commodities. They have examined only the export side and they could not examine the import side. May I ask, Sir, how far it is just to ask for our verdict without placing full facts before us?

Coming to the point I will say that we should examine these things on three lines. Three questions arise out of it, the first is, whether we can compete in the matter of the articles with the other countries in the United Kingdom by getting the preference? The second question is, whether by contraction of market we can get just prices for our goods

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or not? The third question is, whether countries in the United Kingdom can consume all the articles produced by India and by other countries in the United Kingdom?

If you will see the Schedule, you will find, first of all comes the wheat question. In this connection it is very clear that we have imposed taxes in the shape of protection duty on Australian wheat which was imported into India and was cheaper than Indian wheat. Now, I ask, Sir, when Indian wheat cannot compete with the Australian wheat in India, how is it possible that we can compete with Australian wheat in the United Kingdom? In tea, Ceylon will be our competitor. The same case is for other commodities. Then, dealing with the third point I will deal with oilseeds, hides and skins. You will find that the United Kingdom cannot consume the whole quantity. I will say about oilseeds that ground-nut supplied to the United Kingdom is only 10 per cent.—linseed 12 per cent.—castor seed 12 per cent.—rape seed 26 per cent.—and others 26 per cent. Whereas the quantity of these articles that we supply to the other countries is as follows: ground-nuts 88 per cent., linseed 88 per cent., castor 88 per cent., rape seed 74 per cent. and others 74 per cent. This is the condition of the oilseeds.

Then comes the question of hides and skins. In this connection I want to read a passage from the letter which I have received from the Muslim Chamber of Commerce, Calcutta, sent by Mr. Nauman, B.A., the premier exporter of hides and skins, because some of my Muslim friends are doubtful about this hides and skins question. So I want to place it before them. They say:

"Strangely enough, these are the very commodities which, though included in one form or other in the category of preferences, will suffer the most if the Agreement is carried out as their export to foreign country is on such a large scale that in comparison to it the export to the United Kingdom is a nonentity."

Here I will add that countries in the United Kingdom *cum* India produce more hides and skins than is needed. Further, they say:

"It is an open secret that the position of the hides and skins merchants is far from happy as they have been experiencing for the last three years continued depression in their trade. The only source of consolation for them consists in whatever exports they can make in raw hides and skins to Germany who is by far the largest buyer. If over and above the 5 per cent. export duty which is already a serious stumbling block in their way, a further handicap in preferences is imposed, there is great danger that even this last ray of hope may become extinct to them, as Germany's attitude towards India is bound to be biassed and in consequence any action on her part to counteract the preferences will systematically put an end to the importation of Indian raw hides, etc., into Germany."

That is the question of hides and skins. The second point is also against this Ottawa Agreement, because contraction of market will decrease the competing buyers and the United Kingdom will dictate the price suitable to them.

Similarly if you will examine—and my other friends have said it—by the preferences which have been given to India, India is not going to gain anything. The preferences are given to such commodities for which India either has got a sort of monopoly or has no chance to compete with other countries in the United Kingdom.

My Honourable friend, Dr. Ziauddin Ahmad, has solved the question of the mathematical problem that the balance of trade of the whole

world is always zero. (Laughter.) But, Sir, mathematical problems cannot solve the practical questions. If you will permit me, Sir, I will relate a story which I remember. A marriage party was going to a certain place and there was a river in the way and when they came there, the father of the bridegroom asked his elder son who was an Engineer with a sound knowledge in Mathematics whether it was possible to cross the river or not. The boy sent a man to measure the depth of water and the man measured it and said that the depth of water was one foot at one place and two feet at another place, and again at one place it was 25 ft. and in another place it was 30 ft. while in the end it was  $1\frac{1}{2}$  ft. and in the very end six inches. The total length of the river was 20 ft. The mathematician son then began to calculate and came to the conclusion that the average depth of water in the river was about three feet, and then divided the average depth of water on the number of the men in the party and said that the average depth of water per head came to less than one inch and advised the marriage party that there was no harm for the whole party crossing the river. (Laughter.) I do not want to narrate the result and leave the mystery for the decision of the House. So these mathematical calculations are not useful in practical life, and, if this House were to accept the mathematical results deduced by my friend, Dr. Ziauddin Ahmad, the same results which attended the marriage party would follow in this case. I can conscientiously say that this Agreement is injurious to this country. There is no doubt about it. We are not going to gain anything from this Agreement.

Sir, at the same time I will say that it is not our duty only to make speeches here or to point out that this thing is bad or that thing is not bad. Our duty is to suggest practical methods to Government. If we cannot reject an injurious measure, then what is our duty?

**An Honourable Member:** To resign.

**Mr. M. Maswood Ahmad:** Our duty is to decrease the injuries, to minimise the harmful effects of the measure. It is quite clear that we are in a minority. Government have an overwhelming majority. There are 40 Nominated Members, there are 10 Members of the European Group, and there is another United Party which has come into existence, and so on. There is no doubt we are in a minority, but merely saying that this measure is injurious and that we should reject it is not sufficient for us. When we cannot reject any measure, then what is our duty? Our duty is to try to decrease the injurious effect of the measure. Even if no body from amongst the Opposition goes to the Select Committee, Government is sure to pass this Resolution, and the Bill will be sent to a Select Committee composed of the habitual supporters of the Government. I, therefore, appeal to the Leader of my Party and to the other Members of my Party as well who think that this Agreement is injurious that they should go to the Committee and decrease the injurious effects of the Bill.

Now, Sir, there are three ways to give preference. I want to deal with this question, because I am not aware who will be in the Committee, and to enlighten the House I will suggest only one thing. There are three kinds of giving preference. We can give preference either by increasing the rate for other countries or by decreasing the rate on British goods, or something by decreasing and something by increasing. In my

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opinion, if the Treasury Benches are bent upon giving preference to British goods, then the only course is to decrease the taxes on British goods and not to increase the taxes on foreign goods. In dealing with this question, Sir, I will say that India has been over-taxed now. We, Indians, are poor, and there is no doubt about it. We generally use Japanese and German goods, because they are cheap. So if Government will increase the taxes on foreign goods which we generally purchase, we will have to pay higher prices in future. What we sell is already very cheap and we do not get fair return, while what we are to purchase is too costly. Therefore, I suggest that we should not increase the taxes on foreign goods . . . .

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member will please conclude within three minutes more.

**Mr. M. Maswood Ahmad**: Before closing my speech, I will say this, that if Government are going to increase the taxes on foreign goods, it will be disastrous to India. If they dared to make money by this preference policy, they will be responsible for the result. If the last drop of Indian blood which they have taken in the shape of surcharge imposed by Sir George Schuster is not going to quench the thirst of the Treasury Benches, then we cannot help any more. We cannot bear any more taxation, and if Government are going to give preference to British goods by increasing the taxes on foreign goods, then, I again say, it will be disastrous to India and it will create a revolution in the country.

**The Honourable Sir George Schuster** (Finance Member): Sir, if I rise today to take part in this debate, it is not because I think that I can contribute very much in the way of argument on the merits of the case in addition to all that has been said and written already, all that has been said in very able speeches in the first debate such as that which was made by my friend, the Deputy President, all that has been said in the very lucid Report prepared by the Special Committee of this Assembly, all that has been said in a series of particularly convincing speeches to which we have listened both yesterday and today, speeches like that made by my friend, the Leader of the Nationalist Party, by Dr. Ziauddin Ahmad, by Mr. Burt, by Bhai Parma Nand, by Mr. Mody, and this morning again by my friend, the Deputy President. Sir, I think every man who will sit and study carefully all that has been said on this subject cannot remain unconvinced, cannot retain the earlier prejudices with which this whole matter was viewed. If I speak today, I wish rather to put certain broader aspects of the whole matter before the House, and I wish to speak as one who witnessed the actual negotiations at Ottawa and still retains some very vivid impressions of what happened on that momentous occasion. But before I turn to those wider aspects, there are one or two points with which I feel that I must deal.

In the first place, as regards the financial aspects of this measure, the Honourable Member who has just spoken has very kindly offered us "enlightenment" on that subject. Honourable Members will find what our actual proposals are from the Bill which has been before them for some days. The only point which I wish now to emphasise is this, that the whole of those proposals has been prepared with the express design of producing results which will not appreciably affect the tax revenue of

the country. One has to work on certain estimates and calculations. One has to make estimates of what, if any, the diversion of trade is going to be of imports from foreign countries, to imports from Great Britain, as a result of the preference. Having made those estimates, it is merely a matter of arithmetical calculation to devise a scheme which will produce exactly the same results as regards revenue as the existing schedule of duties. We believe that what we are proposing to the House will have no appreciable effect on the revenue returns, and, therefore, will not have any effect on the prospects of further taxation.

There is another point, a point which was touched on by Mr. Mody in his speech yesterday,—the effect on the consumer. Here, again, we believe that the continued competition, the very keen competition to which the trade of every country is subjected today, that very keen competition will continue between foreign goods and British goods, so that if British goods get the advantage of a ten per cent. preference over foreign goods, and if that advantage is translated into terms of duty by giving the British goods a five per cent. lower duty than they have at present and putting on foreign goods a five per cent. higher duty than they bear at present, we believe that the competition will tend to reduce the prices at which foreign goods are sold to the level of the British goods, and that in the long run the tendency will be that the consumer will benefit from these changes. That, I admit, is a matter which must be carefully watched in the future, but that at present is our confident belief.

Then, Sir, among other points which seem to be exercising the minds of some of my Honourable friends opposite, there is that point of possible retaliatory measures, and I believe that some of my Honourable friends, particularly from the Punjab, have a fear lest, as an indirect result of this whole measure, countries like Japan may take retaliatory measures against Indian cotton, and that, therefore, much wider damage may be done than the benefit which could possibly accrue from the preferences under this Agreement. I think that if any Honourable Member has fears about cotton, he should realise that the occasion on which those fears ought to have been expressed was a few months ago when at the urgent request of the Indian manufacturers the import duty on Japanese piece-goods was increased to 50 per cent. That was a discriminatory measure of far more intensity than anything which is contemplated in this Agreement. That was an occasion on which those fears might have arisen and been expressed. But what is the result of that measure? Do we see any falling off in the demand for Indian cotton? No. There has been no falling off in the demand for Indian cotton, neither in the Japanese purchases of Indian cotton nor in the purchases of any other country. Indian cotton continues to hold its place today, both as regards the quantities that are sold and as regards the price at which they are sold. Indian cotton still commands a price which, if anything, is above the normal parity. While I am speaking on this subject, I should like to say this. There is, I believe, no big exporter of primary agricultural products in the world today which is in such a favourable position as India is as regards the exports of Indian cotton. We have no stocks piling up. The statistical position is and has been for the last two years increasingly strong. That, Sir, is, I think, a point which should impress Honourable Members who feel any fears on that particular matter.

Then, Sir, there is one other special point on which I had intended to say something, and that relates to the charge which is frequently made



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and has been made in very emphatic terms by my Honourable and learned friend, Sir Abdur Rahim, today, that the Indian Delegation were not free agents in this matter. Sir, that charge has been answered . . . .

**Sir Abdur Rahim:** May I say a word by way of personal explanation? I did not say that the Delegates were not free agents; I said that the Government of India were not free agents.

**The Honourable Sir George Schuster:** I accept my Honourable and learned friend's explanation and I am quite prepared to deal with that point as well as with the actual words that I used. The charge which my Honourable and learned friend made was answered in much more eloquent language than I can aspire to, by my Honourable friend, the Deputy President. My task now, therefore, is not to make any original contribution on this matter, but simply to endorse what he said. I myself was not a member of the Delegation so far as tariffs were concerned, but I came into their discussions rather as a spectator when we met together on the steamer crossing the Atlantic to Canada. I can tell my Honourable friends that at that time when we discussed the matter on the ship, no decision of any kind had been taken; all the decisions, all the plans as to what we should do at Ottawa were completed on the ship. My Honourable friends were completely free agents. They discussed the matter with every sort of possible variation as to what could be done, with complete freedom on the ship, and the only authority to which they had to refer their proposals, as they finally produced them, were the Government of India. The Government of India—and here I can perhaps speak with greater authority than my Honourable friend, the Deputy President,—the Government of India were throughout, both as regards the proposals and as regards the selection of the delegates, given an entirely free hand. The Secretary of State absolutely respected the fiscal autonomy convention. We operated with complete freedom, and for any results that have been achieved the Government of India must bear the full and sole responsibility.

In this connection I would like to refer to what was done by Lord Curzon's Government in this matter. That has been a frequent subject of discussion in this debate; and a frequent charge that has been made against our present proposals is that we have departed from the principles which were laid down thirty years ago by Lord Curzon's Government. I would like to say with reference to that in the first place that conditions are now entirely different. The position as regards Indian tariffs is entirely different to what it was in Lord Curzon's days, but a much greater difference still is, of course, the policy of the British Government. Again, a third difference is the condition of the world today. We have to carry on trade in conditions today for which there has been no parallel in the history of the world, and it becomes more and more necessary for every country that wishes to maintain its place to design a deliberate plan for its economic policy. It cannot maintain its position merely by sitting idle and following the old-established principles of free trade. Those days are gone and many of us who are free traders at heart profoundly regret it. But we have to face the facts. That, however, is not the point that I really wished to make in this connection. I wished to call the attention of the House to what really were Lord Curzon's feelings on this matter.

There is on record a very interesting speech made by Lord Curzon in the House of Lords on May 21st, 1908. In that speech he explained the motives which prompted that famous Despatch of 1903, and these were his words:

"May I confess that our real apprehensions when drawing up the Despatch about the fiscal future of India were not so much economic as political? We said to ourselves what guarantee should we have if any new system were proposed, that India would have free speech in the discussion of the subject, or a free judgment in its decision?... *(We had no objection in principle to a system of preferential tariffs, and he ended his speech thus.)* If we could understand that in any Imperial Conference which takes place the interests of India would be fairly considered; if a pledge could be given that no system will be forced on her in deference to pressure from England, or from any part of England, which is not suited to her own interests, or that she will not be called upon to accept any system devised exclusively in the interests of England, and that in the event of no such solution being found practicable, she will be left in the enjoyment of the degree of fiscal liberty which she now enjoys, then I believe that India, so far as I have any right to speak on her behalf, would gladly join in any such Conference as I have spoken of, and that she would welcome any practical scheme of fiscal reform embracing preferential tariffs within the Empire, because she is already in favour of the main principles which underlie that reform, and because in the respects to which I have referred she has already put into practical operation some of the most effective means of carrying those principles into effect."

Now, Sir, I maintain that those political conditions which Lord Curzon laid down have now been fulfilled, and there can be no doubt in the mind of any one who has had any part in these negotiations and discussions that India, so far as she is represented now by the present Government, had an absolutely free hand in this matter, and that the Government, in fulfilling their responsibility in that connection, were actuated by one motive and one motive only and that was the best interests of India. And, Sir, this Government, going beyond what has been done by any Government in any of the Dominions, have afforded this House an opportunity for examining the whole proposals which, I say, is not paralleled in the case of any other part of the Empire. As a result of that examination, an overwhelming majority of the representatives chosen by this House to examine the matter have come to the considered conclusion that this Agreement is in the interests of India.

Now, Sir, I wish to turn from that to what I have always felt to be the real issue in this matter. And that is an issue of which we have heard surprisingly little. I believe that on its merits this Agreement is in the interests of India and, I believe, that those who are prepared to listen to reason and to let that influence their mind must have been convinced by the speeches which have been made, and by the report of the Committee that that is the case. But that is not what I have in mind as the real issue. The importance of any advantage which India can get out of this Agreement pales into insignificance in comparison with the importance of what is the real issue in this matter. The real issue in the matter is this—is India to join the economic group of the British Commonwealth of Nations or is India to cut herself adrift and stand alone for all time. That, Sir, is the real issue and I do not believe that there is any Honourable Member in this House who, if he himself sat here and had to carry on his shoulders the responsibility of answering that question, could possibly answer it in any other way than that in which we and our delegates have done. (Applause.) Sir, I fully concede to my Honourable friend, Sir Abdur Rahim, complete honesty in the line which he has taken; but I would put this to him. It is a very easy

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line to take. He himself has told us that we are assured of a majority over this measure. He, therefore, has accepted the position that it is bound to go through. That being so, nothing which he says is likely to influence the actual result. He is not standing out in the cold liable to be blown upon by the tempest that would arise if we rejected this Agreement and, if India had to stand alone in the world. He has not got to face that alternative. He can adopt the easy course of pointing to details in the Agreement where he thinks India has not got quite all that she ought to get or to other points where the results are uncertain. That, Sir, is a very easy task, but I put it to him if he had to choose now if India shall join this new movement for economic co-operation within the Empire or if she should take the terrible risk of standing on her own and rejecting the proffered hand, would he dare to take that risk? I believe, Sir, that he would not, and as I have sat through this debate or as I read the four days discussion which preceded it, I have asked myself what would Honourable Members have said and what would the public of India have said if we, who carry the responsibility of Government today, had declined to take part in this Ottawa Conference and if we had not been able, through the great ability of our delegates, to produce to them an Agreement which offers India a profitable entry into the British Commonwealth of Nations and to the British economic group. They would have said that we had been guilty of the gravest possible dereliction of duty. And they would have been right.

Now, Sir, I wish to say something on the value of Indian co-operation in this British economic group. I wish to explain to the House why I myself, and my colleagues, attach such tremendous importance to India's entry into this group. Since I last spoke in this House, I have had the opportunity of going over a great part of the world and talking at first hand with those who are responsible for the finances of a great part of the world today. I have seen conditions in Canada, and in the United States. I have talked with those who are responsible for the finances of Australia, New Zealand, South Africa and most of the European countries. I do not believe there are many Members in this House nor of the public in India who have the least appreciation of what are the conditions in the world today, of what terrible dangers hang over every country, of the instability which exists everywhere, of the threats which are menacing the existence not merely of Governments but of the whole social and economic order on which the world has built up its present position. Now, Sir, amidst all these dangers, amid the tremors which may presage a violent earthquake, I believe that there is only one solid bit of ground in the world today and that is the ground of those territories which are working together within the British group. I believe the only sure foundation for the continuance of trade and the whole economy of the world, as we have known it, the only sure foundation in the world today is British credit, British honesty and British commercial integrity. Some people would pin their faith on gold regarding gold as the ultimately secure form of investment. But what is the use of gold in the world if gold, as a basis of currency, is no longer of any value, and how can it function as a basis of currency unless the world continues on the established economic principles? If those go, then gold becomes completely valueless. You cannot eat it; and the amount that will be required for jewellery and the arts is of negligible importance. Indeed no

one would require that in the conditions which would then arise. But, on the basis of British honesty and British commercial integrity, we have something to lean upon. And it is a very remarkable fact that, since the British Government decided to unlink their currency from gold, sterling has become the reliable standard of value in the world. It is sterling which is stable, and it is gold which is soaring about in the heights, unrelated to any reasonable value for commodities. Sir, I have no time to enlarge on that point, but I commend it to the serious attention of my Honourable friends. If there are any who seek for some practical indication of what membership of the British Group means today, I would like to put before the House one fact. It is merely illustrative, but I think it is very significant. If we turn back to 1929, that is to say, to the beginning of the present crisis, and compare the credit of India with, let us say, the credit of Japan—a country which has always been quoted to us as one which manages its affairs extremely well in the national interests—we find that in 1929 the credit of Japan stood very nearly on the same level as the credit of India. What is the position today? I have looked up the latest London papers which we have—the papers of the 17th November—and I find that Japanese 6 per cent. sterling Bonds in London stand at about 68, Japanese 5 per cent. Bonds at about 58, Japanese  $6\frac{1}{2}$  per cent. dollar Bonds in New York at 63. The yield is thus very nearly on a 10 per cent. basis. But India's  $3\frac{1}{2}$  per cent. securities stood on the date to which I am referring at about 85; that is to say, our  $3\frac{1}{2}$  per cent. securities in London stood at about 17 points higher than Japanese 6 per cent. securities. Now, I think that is a very good indication of what being a member of the British Group means today, and I again venture to commend that also to the serious consideration of my Honourable friends.

Sir, the time is short and I do not wish to detain the House, but before I close I should like to add two other points as regards the reasons why I feel it so important that India should continue to remain a member of the British Group. It is not merely in India's direct material interests that it is so necessary. It is because I feel that India, being a part of that Group, will add to the strength of that Group: and in the strength of the British Group lies really the surest hope of some recovery from the present evils from which the world is suffering. There was a striking passage in a speech made by Mr. Neville Chamberlain, to which I listened the other day in Parliament in London, when he opened the debate on the Ottawa Agreement. He there called the attention of the House to the fact that all nations today were inter-connected, and that no nation could go down into the morass of economic depression without depressing the fortunes of its neighbours. But he went on from that to say, conversely, that if any group can pull itself out of the morass and get on to surer ground, then it can help the other nations of the world; and he said that if the British Group, as a result of this Agreement, can move towards security and prosperity, then it could lend a helping hand to other nations, and that is going to be the brightest hope for getting away from our present troubles. Sir, I believe that to be very true, for, if there is one group which has shown a broad view of the international position and has shown a desire to help the world to recover its prosperity, it is the British Group: and by joining the British Group, by strengthening the hands of the British Group, India will be contributing to the chances of recovery of the world.

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There is another aspect of the same idea, a rather more personal one that I wish to put before the House. Sir, it was my good fortune to be present at Ottawa. As I have already said, I was not a member of the Tariff Delegation. I was interested merely in the question of currency and monetary reform; and, therefore, if I say anything now in praise of the Indian Delegation, it is not of myself that I am speaking, for I am not included. Sir, I think one of the most vivid impressions which I have retained from my visit to Ottawa is that of the brilliant success achieved by the Indian Delegation (Loud Applause); and in witnessing that, I felt that I saw a new vision of the future—Sir, it was admitted on all hands that Sir Atul Chatterjee, the Leader of the Indian Delegation, stood out from all the Leaders of the other Delegations for his ability in the conduct of affairs. (Loud Applause.) I will spare the blushes of my Honourable friend, the Deputy President, and the other members of the Delegation and will not expressly extend that compliment at this moment to them. But, Sir, the work of the Indian Delegation conjured up in my mind the vision of Imperial Conferences in the future; and it was brought home to me, in a way which I have never realised before, of what enormous value the contribution of representatives like those which India sent to Ottawa would be to the deliberations of the Empire in the future. (Loud Applause.) India is able to supply men with long traditions behind them, men who will bring a new outlook to bear on the whole question, and I am convinced that India's part in the deliberations of the future will not only be of enormous advantage to herself but to the Empire as a whole. (Hear, hear.) Sir, in Ottawa I think I may say that we worked together in a spirit of comradeship which it is perhaps difficult to preserve amid the political controversies that surround us here. I think we felt on our side an enormous admiration for our Indian colleagues. It was a pleasure and pride to us, to Sir George Rainy and to myself, to serve under an Indian Leader like Sir Atul Chatterjee, and I hope our Indian colleagues on their side felt equal pleasure in working with us. The Deputy President has already paid a tribute to Sir George Rainy and I was very glad to hear him do it. That was a splendid illustration of the idea which is in my own mind. I think if Honourable Members would cease looking for points of criticism in the details of this Agreement, if they would try to realise that what happened at Ottawa was something which has enormously enhanced the prestige of India, which has firmly established a place for India—and I would say an *independent* place for India—in the future discussions of the representatives of the British Commonwealth of Nations, I think if they would take that attitude, then they would approach this Agreement in a quite different spirit to that which we have had illustrated in some of the speeches which have been made today. Sir, I would appeal to those who may still be in doubts as to which way they should cast their votes—I would appeal to them to appreciate the broader aspects of this question. I would appeal to them not to destroy the spirit of the work which was done by their Delegates at Ottawa; not to destroy the spirit of Imperial co-operation which has been given such a strong start at Ottawa; and I would say to them: Respond to that in a generous way: let us have no meagre majority: let us have as big a majority as we can get to convince the world that India is ready to take her part in the British Commonwealth of Nations and to reciprocate the appreciation which on the British side is given to her. (Applause.)

**Mr. Muhammad Yamin Khan** (Agra Division: Muhammadan Rural):

Sir, I am not a commercial man and I know nothing about the commercial intricacies which can follow by this Agreement, but I wish to express my view only as a layman, and as a producer.

I sat in the Committee and if I had not done so I would be the last person to stand up and make a speech in the House today. But when I sat there and listened to the evidence which came before the Committee, I confess that I was not impressed at all by the evidence of those gentlemen who seem to have created such a good impression on the mind of my Honourable friend, Sir Abdur Rahim. I thought that they were talking just like a student who has read only in the books and had no practical experience of the world or of the commerce which we wanted to listen. Sir, I will confine myself to a very few remarks and I do not wish to go into the details which have been dealt with very ably by other Honourable Members. My remarks will be confined to the agricultural produce. India, Sir, has got a big population. About 80 per cent. of the people live in the villages and entirely depend upon the agricultural produce. The interest of this 80 per cent. of the population is really the interest of India. It cannot be said that about 15 per cent. population which is living in the cities can override the 80 per cent. population which is living from hand to mouth.

Now, Sir, the advantage which I can see by this Ottawa Agreement is the giving of preference to the Indian producer by raising the level of prices in England and thereby raising the price in the world. All the benefit that will accrue from this Agreement will go into the pockets of the people who are engaged either as farmers themselves or as field labourers. That is bound to raise the prices, because all this benefit will go into their pockets. Now, whatever the disadvantage there may be it is not going to affect the agricultural producer in any way. No Honourable Member has been able to convince me, nor the witnesses who appeared before the Committee could convince them that the benefit was not going to accrue from the exports which we were going to have. The exports, so far as the Agreement is concerned, are going to bring the benefit to the teeming millions of India and this factor will redeem a bit the position of the starving millions of India in the matter of their daily requirements.

My Honourable friend, Mr. Sadiq Hasan, said yesterday that the cotton of the Punjab was going to be adversely affected, because Japan was going to retaliate. I cannot understand his theory. To my mind, he could not convince the House at all that Japan was going to retaliate in any way. Japan can purchase this class of cotton only from India. There is no other competitor of this class of cotton in the world. So, if Japan wishes to retaliate, then there can be two kinds of retaliation. One is that she will refuse to purchase any cotton from India. If they were to do so, it would mean the closing up of all their factories which are manufacturing cotton goods. This, I am sure, Japan can never afford to do. If Japan does not wish to close her mills, then she must purchase cotton from India. The other way to retaliate can be that they may not be willing to purchase our cotton at this price. If they do not purchase at this price and the producer says that he is not going to sell at a lower price, naturally they will come to some agreement, because one is anxious to sell and the other is anxious to buy and the level of the price can never go down. So I cannot understand how Japan can retaliate.

[Mr. Muhammad Yamin Khan.]

Another remark was made by my Honourable friend, Raja Bahadur Krishnamachariar, yesterday and he read out a passage from the Report of the Committee about wheat. He said that he did not know how the wheat was going to be affected and this morning a similar remark was made by Mr. Maswood Ahmad. He said when Indian wheat could not compete with Australian wheat in India, how could it compete in the United Kingdom? I think these remarks were made, because the Honourable Members do not know the real position. I am afraid they have not properly studied this problem or the figures. If they had gone through the figures which were supplied to the Members of the Committee, they would have been convinced by them at the very first glance. I had my own doubts and I still have certain doubts, but I think the position has been made very clear to me as far as wheat goes. My Honourable friend, Mr. Maswood Ahmad, also made a few remarks to the effect that Indian wheat could not compete with the Australian wheat even in India itself. Well, Sir, that is a position which he has taken up without giving even a moment's thought. Australian wheat was, as far as I know, never sold in Delhi or in the centre of India, and the Australian wheat can never compete with the Indian wheat in the central parts of India. Australian wheat was imported at Bombay and Calcutta and the Indian wheat could not compete with it there, because of the railway freight which is very high. I came to know from some of my friends who wanted to purchase Indian wheat and the Punjab wheat in Calcutta. They purchased it at Karachi instead of at Lyallpur. It costs them much less to take the Punjab wheat from Lyallpur to Karachi and then ship it to Calcutta than to take it by rail from Lyallpur to Calcutta. That is the real difficulty in the way of the producer of wheat in the Punjab and the United Provinces. We can now see the prices.

In 1927, the price of wheat which was imported into the United Kingdom from India was £12/7 per ton; in 1928, it was £12/2 per ton. Then, in 1929, it came down to £11/1 per ton. Then came up the crops of 1930. In 1930, India produced about two million tons as surplus wheat than was the average production of the past years. So did Canada and so did Australia. These three countries produced about six million tons more than their average production and that brought down the prices to a great extent, because the purchasers were very few. And at once we find that in 1930 the price instead of 12·2 or 11·1 came down to 8·8 per ton. In 1930, this could not be sold and the surplus produce was collected in all the countries. The effect was that in 1931 the prices went down to 5·5. From 12·7 it came down to 5·5. This brought ruin on the agriculturists in India, because wheat is the real standard of value in India and everything is sold in India according to the relative value of wheat. Wheat is the determining factor of the commodities or daily requirements in India. If wheat becomes cheap, ghee is bound to become cheap, maize is bound to become cheap, fodder is bound to become cheap, and the people who cannot sell their produce at a higher rate have got very little money in their pockets to purchase manufactured goods either made in India or imported into India from outside. So the whole economic condition of India depends upon the relative value of wheat. So, in order to make India a rich country, wheat must be sold at a high price.

Now, Sir, I will give one more instance and that will convince my Honourable friends who have got some doubts as I myself had. The

United Kingdom imports about  $6\frac{1}{2}$  million tons of wheat every year. Out of this,  $2\frac{1}{2}$  million tons come from the Empire countries, that is, Canada, India and Australia. And three million tons of wheat are imported into England every year from foreign countries, that is, United States of America, Argentine and Russia. So more wheat is supplied to England by the foreign countries and our normal production in India is about  $8\frac{1}{2}$  million tons. Now, our capacity of growing wheat in 1930 has shown that India can produce  $10\frac{1}{2}$  million tons, that is, two million tons over and above our average production. India's capacity to grow two million tons more can be achieved every year if we can find a world market. If we can sell our wheat in the United Kingdom, we can certainly grow two million tons over and above our production at present. This we could supply to the United Kingdom if we could find a favourable market at our cost of production. That cost of production can be affected and we can compete only in two ways. The first is, if the cost of production in other countries rises; secondly, if we can decrease our cost of production; and, thirdly, if there is a duty on the produce of the foreign suppliers. What this Agreement amounts to is that they are going to put about nine shillings and a few pence more over every ton on the import of foreign wheat. This means that the prices at which they have been supplying in England will rise, and if the price of foreign wheat rises, this gives us an opportunity to sell our wheat even cheaper than theirs if we sell it at nine shillings more than we are doing now. This means that we will be still selling at six pence less per ton and getting higher prices in India for wheat.

Leaving this aside, another question which comes up is whether we shall be able to achieve this or not. The only thing we can do is this that at present we have to see the circumstances and we have to afford an opportunity to the producers. We cannot say that this result will be achieved in a day or two or even in a year. An opportunity has to be afforded to the producer and this opportunity is afforded by the present Agreement by raising the level of prices. And, I am sure, that India will not have the prices that prevailed in the last two years. One effect which, I am sure, will be produced on wheat by this Agreement is very important. At Lyallpur, the price of wheat at the crop time, in May or June, was Rs. 1-6-0 per maund, the lowest for very many years, and in the villages it went down to Rs. 1-2-0 per maund. In Meerut, Hapur and Delhi wheat was sold in May and June at 23 seers a rupee whereas we find that at present it is 12 seers a rupee. Where has that money gone to? Has the producer gained anything? Has the consumer gained anything? The producer sold his produce at 23 seers a rupee in the month of June, because they could not afford to keep it lying after June. They must pay the Government revenue. The producer sold it at that time and now the consumer is purchasing it at 12 seers to the rupee, this means that all this money is going into the pocket of the middleman. He is selling for two rupees the same thing which he purchased for one rupee and this was the result, because there was no export of wheat at that time. Nobody from outside was willing to purchase a single maund of wheat in the month of May and June from the Indian producer and that is why this was the result. As soon as this happened, that effect has been achieved. We will ask the Government, later on, that the Government should come for the help of the producer not only by extending the period of the import duty on wheat which they brought about two years ago, but to continue that for several years more; but also by two other



[Mr. Muhammad Yamin Khan.]

methods: one of them will be by reducing the freight for wheat to the port towns of Calcutta, Karachi and Bombay, and another by asking the British Government to put up their demand of purchasing any wheat whatever they require in the month of May and June and not in October or November as they have been doing in the past. As I have not got much time at my disposal I will conclude and I will only say that I have looked into the side for which preference is going to be given on the imports and I find that all those articles which are going to be imported they are not going to affect even a little bit any of the people who are living in the villages. All those commodities are meant for the rich people and, therefore, I do not look to the interests of the rich people as the interests of India: the poor agriculturist's interest is the interest of India and, therefore, I support.

The Assembly then adjourned for Lunch till Twenty Minutes Past Two of the Clock.

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The Assembly re-assembled after Lunch at Twenty Minutes Past Two of the Clock, Mr. President (The Honourable Sir Ibrahim Rahimtoola) in the Chair.

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**Mr. N. N. Anklesaria** (Bombay Northern Division: Non-Muhammadan Rural): Sir, in spite of the very honoured and respected names which I find among the signatories to the Report before this House, I am constrained to say that the Report, in my humble opinion, is a very disappointing document.

**Mr. S. C. Mittra** (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): Hear, hear.

**An Honourable Member:** Is that so?

**Mr. N. N. Anklesaria:** In spite of the remarkable speech that the Honourable the Finance Member delivered this morning, I feel convinced that the Report has got nothing to commend itself. ("Hear, hear" *from the Nationalist Benches*.) I have carefully gone through the whole Report, read it at the top, in the middle, as well as at the end, and I have found nothing in it.

**Mr. B. V. Jadhav** (Bombay Central Division: Non-Muhammadan Rural): Very good.

**Mr. N. N. Anklesaria:** In the beginning of the first paragraph, the Committee state that they have made a *thorough* examination of the material which was supplied to them. At the end of the same paragraph, they say that they have not been able to make a full examination of a most material side of the question. Sir, if words have got any meaning, this statement in the Report makes the Report start with a very adverse

presumption against it, and that presumption is confirmed when we proceed to analyse the statements made in the body of the Report. In the middle of the Report, in paragraph 17, the Honourable Members lay down a proposition contained in a quotation from the writings of a Reader in Economics of the Bombay University. They say, they fully agree with the view propounded in that quotation. With all respect, I say, Sir, that in the circumstances of the present discussion the proposition laid down in that quotation is of extremely doubtful validity, for it completely gives the go bye to the fact that there are bargains which are fair and there are bargains which are unfair, there are bargains which are worth having and there are bargains which are worth leaving severely alone. If, in the bargain, England gets one thousand rupees and India gets only one rupee, would any Indian worth the name stand up and say that he will stand by the Agreement? The Committee's investigations have been vitiated by the proposition on which they rely in this quotation as I can show to the House by taking up the statements in the Report *seriatim*. In the circumstances which have been stated, the sole question for the Committee was to find out if a better bargain could possibly have been made with England by our Delegation? And, Sir, there is only one item in which the deliberations of the Committee have deviated in the right direction, and that is about their remarks on the preference to Indian cotton seed. That is the only lacuna they have been able to point out in the recommendations which our Delegation have made in their Report.

Sir, it is said that the Committee have provided safeguards. What are those safeguards? They say they have safeguarded the interests of the consumer. Sir, in paragraph 15 of the Report, they say, as regards the safeguarding of the interests of the consumer, that they think it as impossible to predict generally upon whom the cost of preference will fall. That is not solving the problem of the consumer's interests; that is evading the whole problem. In paragraph 16 of the Report, they talk about safeguarding the interests of the taxpayer, and how do they propose to do it? They have said that they have received assurances from the Honourable the Finance Member that in framing his finance and tariff Bills he would take care to guard the interests of the consumer. But, I ask, was a Committee required to tell us that the Finance Member was going to safeguard the interests of the consumer or the taxpayer. It is then said in the Report that our policy of discriminating protection will in no way be affected by this Agreement. But, I ask, again, was a Committee required to tell us that? The same thing has been stated in the Report of our Delegation . . . . .

**Sir Abdulla-al-Māmūn Suhrawardy** (Burdwan and Presidency Divisions: Muhammadan Rural): Why did you vote for the Committee?

**Mr. N. N. Anklesaria:** I did not vote for it.

**An Honourable Member:** Yes, you did.

**Mr. N. N. Anklesaria:** Sir, I would challenge any Member of this Ottawa Committee on the floor of this House to point out one single argument or one single fact which Members of this House could not have found either in the Report of the Delegation or by making inquiries in the Commerce Department or interrogating my Honourable friend, Mr. Burt, and they would have found the arguments and facts better said and better stated than in the Report of the Committee.

[Mr. N. N. Anklesaria.]

It might be said that the Government are in favour of this motion, and by opposing it you are more pro-Government than the Government themselves. My short answer to that is that if the Government choose to support the motion of my Honourable friend, Sir Hari Singh Gour, it is Government's own concern. I stand here for the principle of consistency, and I stand here against useless fuss and flutterings about nothings. I am, therefore, opposed to this amendment and I support the motion of my Honourable friend, the Commerce Member.

**Mr. F. E. James** (Madras: European): Mr. President, there are three important features of the Majority Report of the Ottawa Committee to which I wish to draw the attention of the House. The first is that the Report was signed by representatives from every Party in the House, and that itself is an important fact. The second is that its recommendations seek to establish the control of this House over the continuance or otherwise of the Agreement, and I think insufficient attention has been paid to that particular point. As far as I am aware, this is the first time, on a matter of this description in which the Executive has said that it is prepared to accept in advance the verdict of this House. I would remind Members of the House that this Report bears the signatures of two Members of the present Government. In the third place, the Report recommends that there should be a permanent Committee of this Assembly sitting to watch the current of trade in regard to those articles which come under the Agreement. I make no secret of the fact that I was opposed on the Committee to this particular procedure being taken, for various reasons, and I think I am not betraying any confidences that are important when I say that Mr. Ranga Iyer and myself crossed swords on this particular point, and ultimately he won. My objection to this particular form of procedure was that I did not think that a Committee of the House, elected largely on the basis of parties, is the best kind of Committee to watch the course of trade and to appreciate the development of agriculture in regard to this Agreement. What I would have preferred would have been something far bigger than this. I would have preferred the creation of an Imperial Economic Council for India, which would represent agriculture, trade, commerce and industry, which would devise means for controlling production, organising expansion, co-ordinating state-aid,—which, in other words, would help to plan the economy of the nation. (*Mr. Arthur Moore*: "Hear, hear.") Although I had to be content with the recommendation made in the Report, I still press upon the consideration of the Government this wider aspect of this very important question.

The Committee came to the conclusion that the Agreement was in the best interests of India, that it would help to retain and help to find a market for the expansion of the exports of India's produce into India's largest and most stable market, the United Kingdom. Those who have had little experience of business underestimate the importance of obtaining a stable and large market. Sir Robert Horne, in the House of Commons, during the Ottawa debate, said that one of the most important things, both from the point of view of the producer and from the point of view of the manufacturer, was to secure a large and stable single market, and that I claim is what the Agreement has done for India. On the other hand, India has given a ten per cent. preference (or  $7\frac{1}{2}$  per cent. in certain instances) on a comparatively small list of scheduled articles of import

from the United Kingdom. I say comparatively small list, because the list actually is only 22½ per cent. of the total list of scheduled imports into this country.

There are certain fundamental objections taken to the Agreement which have been mentioned in the Minority Report and with which I wish to deal briefly.

The first is the argument that whereas British imports into India under the terms of the Agreement are not subject to Empire competition, Indian imports into the United Kingdom are, and the conclusion drawn from that statement,—which is not wholly true, though it is true in large substance,—is that the value of the preferences that are offered to India must remain more or less uncertain in their incidence and will depend upon various factors determining the comparative ability of the competing countries to respond to any increased demand. Now, there are three points to be mentioned in regard to that argument. The first is that, while it is true that a larger portion of the imports into the United Kingdom from this country are subject to Empire competition, it is also true that India's greatest competitors in the United Kingdom are countries from outside the Empire. I would draw the attention of the House to some very pertinent figures. The total value of the market in the United Kingdom in the articles in Schedules A, B, C and D, that is, all the articles on which we get preference in the United Kingdom, is £196 millions. India's present share of that is £49 millions, and that of all the other Empire countries is £44 millions. The share of foreign countries is £104 millions. Therefore, India, with the rest of the Empire, has a capturable market before it of £104 millions. Even today India's share of the market in the United Kingdom is greater than the share of all the other countries in the Empire alone. Then, take the other side of the argument. It is true that a large portion of imports from the United Kingdom into India are not subject to competition to any great extent from countries within the Empire; but again I would remind the House that practically all the imports from the United Kingdom are subject at the moment to heavy and keen competition—competition in regard to articles in which there are low labour costs, and in which there are also depreciated currencies. Then, in the third place, whereas India in the United Kingdom market gets preferences ranging from 10 to 50 per cent. to help her articles against foreign competitors, Britain in this market gets only preferences to the value of 10 per cent., and in some cases of 7½ per cent., to help her in her tremendous fight for India's market with foreign countries.

The second major argument that has been advanced is that this Agreement will seriously damage what have been called the unprotected industries: Those industries which have grown up under the shelter of the existing revenue tariff. I may here say that there will be plenty of time to deal with those things on the Select Committee and there has always been that promise from the beginning. Mr. Ramsay Scott made a strong case and, if I may say so, an able case on this point. I am bound to say I like the latter portion of his speech better than the former portion. I am glad that he has come back like the prodigal son after wandering into the far country! I can assure him that we welcome him back even though he has come back to the same position with which we originally began. I trust, Sir, that Sir Joseph Bore, who is known to be Christian in thought and deed, will be prepared to offer him, when the Select Committee time comes, a suitable present in the shape of a fatted calf. But, Sir, I would

[Mr. F. E. James.]

say this—those who argue on the lines of the first part of Mr. Ramsay Scott's speech are arguing in precisely the same manner as the Canadian manufacturers argued in Canada face to face with their own Prime Minister. I think the attitude of my own party in regard to this matter generally speaking is that we definitely do protest against the present duties being regarded as protective duties only to be removed with the sanction of secondary industries which have grown up under their shelter. My suggestion to the House is that that way lies a policy of indiscriminating protection which fosters uneconomic industries at the expense of the consumer and the primary producer. Having said that much, I would remind the House that the Committee has inserted in its Report a valuable statement that where any of these industries can make out a *prima facie* case, the members of the Committee who signed that Report have pledged themselves to see what they can do to remove any injury that might be caused by the reduction of the tariff in giving preference.

Now, Sir, the third argument is this. It is that the Agreement will not help world prices. I suggest that nobody has ever said that it will. There are other factors. But there are two points which I should like to make. The first is that surely this Agreement means that if and when prices do rise, the producer will be able to take advantage of the rise. The second is this—in the words of the Agricultural Commission—"the producer in this country can get a better price for those crops which are produced for purposes of export than for those crops which are produced solely for the purpose of home consumption". This is confirmed in a book called "Trade and Industry in Modern India" by Professor Vakil, who gave evidence before our Committee, in which he says:

"It must be pointed out that the high price which the producer gets is due in a great measure to the foreign demand. The home consumer has to offer a price which must be as near the export price as possible, because if this were not done, there would be a strong impetus to export more. This is borne out by the fact that the index number of prices of food grains is generally on a much higher level than that of the general index number. If the stimulus of high prices thus brought about were removed, it is possible that the production may fall."

I leave that argument there in Professor Vakil's hands. The fourth objection to the Agreement raised by Sir Abdur Rahim and his friends is, this Agreement will only serve still further to complicate the world situation. Now, Sir, the Honourable the Finance Member has dealt with this aspect of the case in the most able and, if I may say so, powerful speech to which we listened this morning. While he was speaking, I could not help being impressed by two things which came to my mind. I asked myself "who are the real opponents to this scheme?" They can be divided into two classes. First of all, the free traders and, secondly, the apostles of economic nationalism. Part of our troubles in the world today are due to the untoward development of economic nationalism which has resulted in high tariffs all over the world and the channels of trade are blocked. I claim that this Agreement is the first step in regional agreements which must come. The world cannot afford to wait. The world cannot afford to wait even until the time of the World Economic Conference. Surely if it is possible for great countries within the British Empire to come together and make reciprocal arrangements in regard to trade, thereby facilitating exchanges between countries with vast populations, that is a beginning of recovery from our present difficulties.

I suggest to this House that if this Trade Agreement had been made in similar terms under similar conditions between countries that were not members of the British Empire, there would have been no question that this House would have deemed it one of the most remarkable events that have ever taken place in economic history. Therefore, Sir, I claim, in closing, that while this Agreement gives the final blow to what is called free trade, it also kills economic nationalism. It is a foundation stone for continental economic development and thereby leads the way to world recovery.

**Sir Zulfiqar Ali Khan** (Nominated Non-Official): I do not want to detain the Assembly very long, because all the arguments for and against the motion have been produced and there is very little left to say. We cannot, however, conceal from ourselves the momentous nature of the step which the Empire is now taking in departing from the principles of free trade which have so far been followed in the Empire. In Great Britain, this proposal has produced violent opposition. The Liberal Ministers have resigned and there is a great difference of opinion prevailing in the country. In India also, there are visible signs of revolt against this proposal. My own colleagues have cited the verdict of Lord Curzon's Government in refusing to accede to the desire of those who wanted protection for the Empire. Sir George Schuster, in his lucid and forceful speech, showed that Lord Curzon's objections to it were not based on economic principles. They were more political than economic. Whatever the motives of Lord Curzon's Government were it is clear that since then times have changed and principles of business in the world have also changed. It is the needs of the times which mould the methods and policy of a nation with regard to business to be carried on in the world of Commerce, and the present situation demands that we should consider the position solely from the point of view of our own country. But, Sir, unfortunately it does often happen that nations prefer what flatters their vanity to what serves their interest. I have no doubt, however, that my own colleagues here would take a view of the situation which will conduce to the prosperity of India, and to the cohesion and prosperity of the Empire.

Sir, I listened very carefully to the speeches of the Opposition and of those who are opposed to this Agreement. I must say that with the exception of one or two speakers on the other side, I failed to discover any vitality or force of argument in those speeches. They were mostly half-hearted, and, perhaps, made to suit their future prospects. (Hear, hear.) (*An Honourable Member*: "Prospects in Government circles.") It is the same thing if you seek circles outside the Government. It makes no difference. (*Mr. H. P. Mody*: "Both are circles.") I must say, however, that Sir Abdur Rahim's speech was characterised by patriotic feeling, by sense and by the outcome of his own experience. But, Sir, there were flaws in his arguments which were brought out so prominently by my Honourable friend, Sir George Schuster. Now, I must come to grips with the real problem. Indian trade flows into two channels. One goes to the British Empire and the other towards the foreign countries. The question now is, whether it is in our interest to let trade flow towards the Empire countries, or whether we shall dam this channel and let the water flow entirely towards foreign countries. Well, if we refuse the present Agreement, India would then have to seek

[Sir Zulfiqar Ali Khan.]

foreign markets entirely. Now those foreign markets, as far as I can see, are not very stable—I would rather say that they are treacherous. You are aware that those manufacturing countries—France, the United States, Italy and so forth—possess colonies which they are fast developing. France is most favourably situated. She has her colonies on the Mediterranean coast-line, for example, Morocco, Algeria, Tunis, Syria. These are most productive countries and there France is fast developing the agricultural resources of those countries; and all the raw materials which we may possibly be sending to France will be available in a short time to the French factories in these colonies, and the advantage of those raw materials lies in the fact that these countries are so closely situated to the markets which they seek. India, standing alone, will not be able to capture those markets; in fact, India's chances of keeping her present trade would be very meagre. Sir, I have seen by experience in my travels over the continent of Europe that both big and small countries are all bent upon cutting our throats. They are raising high tariff walls against us, in fact they are raising high tariff walls against their own neighbours and much more against us. Under these circumstances, how can we expect that whatever trade we have with them will flourish in the future and all the trade which we shall lose within the Empire by rejecting this Agreement will find markets in those countries? Under these circumstances, I cannot understand how we can sever our connection economically from the Empire. It would be a very short-sighted policy indeed to let go this present opportunity of improving our prospects of developing our trade within the Empire and to depend on those treacherous markets in the continent of Europe which are called foreign markets. Sir, my friend, Mr. James, has shown what chances there are for us to capture a large part of the trade of the Empire. Well, we can do it by developing our resources and it is the duty of Government to help us in developing the agricultural resources in this country. Now, coming to the problem of imports, the thing which strikes me is this, that however we may grant preference to British goods, the fact remains that unless the purchasing power of the people is strengthened, no goods, whether they come from England or from foreign countries, can find a sale in India. So the primary need not only of the country but of the Government is to see that the purchasing power of the people is enhanced, and their material prosperity developed. Well, my Honourable friend, Sardar Sant Singh, who comes from the same province as myself, has said that wheat in the Punjab has no chance of being exported from India according to the proposed arrangements. I also listened very carefully to my friend, Mr. Muhammad Yamin Khan's arguments. He produced his arguments at great length with facts and figures, and so on, but he foundered on the rock when it came to suggesting practical means of improving the chances of wheat by reducing the cost of production. In my own note, I have suggested a few remedies. First, I ask the Government to grant concessions for the Punjab wheat. The first is a revision of the water rate, second, the revision of the railway freight and third, the revision of the shipping charges. If these three rates are

3 P.M. revised and reconsidered and they are appreciably reduced, I have no doubt that the Punjab wheat will have a great future before it and it is a well known fact that before, and after the war, we exported large quantities of wheat from the Punjab. In fact, the

prosperity of Karachi is due to this export trade from the Punjab and, on account of it, the Punjab cultivators found great prosperity. But since the cost of production has increased in the Punjab, the profit which could be derived by exporting wheat from the Punjab has also disappeared. The result is that Australia, the Argentine, Canada and Russia and other countries have competed with us. Obviously under the present circumstances there is hardly any chance for the Punjab wheat to derive any advantage from the proposed preference because when the Australian wheat can attack our own home market, here with profit, at any rate along the coast line of India, how can we hope to derive any advantage out of the competition in the markets of Great Britain?

**Mr. Muhammad Yamin Khan:** I may point out to my Honourable friend that the cost of production of wheat in Australia, I am told, is about Rs. 3-2-0 per maund which is much higher than the cost of production of wheat in India is.

**Sir Zulfiqar Ali Khan:** Then, how can it compete successfully with the Indian wheat? It is a great pity, Sir, that people from other provinces who know so little about the problems of cultivation and the cost of production in other provinces have the audacity to say these things. I come back to wheat and will continue my argument with regard to its prospects. I hope, Sir, I have a few minutes still.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member has already had 15 minutes and the Chair will allow him only five minutes more to conclude his remarks.

**Sir Zulfiqar Ali Khan:** Thank you, Sir. I will rush through all that I have to say. Wheat, as I have said, must be developed not only in the interests of the Punjab, but in the interests of Government themselves, because, as I have said before, the purchasing power of the people must be strengthened and that is the concern of both the people and the Government. If facilities are afforded to the people in the Punjab in the way I have suggested, I have no doubt that the wheat trade in the Punjab will revive and find prosperity.

Now, with regard to cotton. That is also another staple crop in our province. Sir George Schuster has clearly shown that cotton in the Punjab is not likely to suffer at all, because the demand for the Punjab cotton is not diminishing in any country, especially in Japan. Under these circumstances, our apprehensions with regard to the hard times before us in connection with these two commodities are not well founded.

Now, Sir, I will not deal with any of the arguments put forth by some of those who oppose this motion, because there is no time, but I must appeal to my Honourable friends that from the short speech that I have made they will feel that the chances of India are much brighter by agreeing to the proposed Agreement than otherwise. Sir Hari Singh Gour began his speech yesterday by quoting from Omar Khayyam and I will close mine by quoting Omar's Verse: I say that if you Honourable Members of this House miss this opportunity of taking advantage of this Agreement, your reward will neither be here nor there.



**Mr. Gaya Prasad Singh** (Muzaffarpur *cum* Champaran: Non-Muham-madan): Sir, before proceeding to make a few very general remarks which I should like to offer, I desire to record my protest at the way in which the papers that were available to the Members of the Special Committee have been withheld from this House. It was as if with a triumphant air that the Government agreed to go into the Special Committee, and there to examine expert and other witnesses in order to come to a correct conclusion. The experts have been examined, and their evidence has been recorded; but the Members of this House have been deprived of the opportunity of studying the papers and coming to their own conclusions. Sir, I am not raising a definite point of order, but some Members of this House have read from the evidence recorded in the Committee; and I understand that there is a practice in this House, although it is not embodied in the rules, that no Member should be allowed to read from a paper which is not available to the other Members in this House. Apart from that, it is hardly fair that Members of this House should be deprived of the right of studying those papers, and formulating their own conclusions thereon. I would even now request my Honourable friend, the Commerce Member, to supply the Members of this House with a copy of the evidence that has been recorded in the Special Committee.

Sir, about three years ago, Pandit Madan Mohan Malaviya, the then leader of the Nationalist Party in this House, and the revered leader in the country, resigned from this House with a few of his other colleagues on this question of preference which was then accorded to one article only against the protest of the majority of the elected Indian Members. Today I find that my esteemed friend, Sir Hari Singh Gour, the leader of the Nationalist Party, has joined hands with the Government in accepting the principles of Imperial Preference for at least three years. Sir, my Honourable friend, Mr. Chetty, for whom I have great respect, went to Ottawa as the Government's nominee. There he signed that Agreement which he now tries to justify, and to ask us to accept. Sir, this reminds me of the well-known fable—the story of the fox without the tail. (Laughter.) My Honourable friend has lost his tail at Ottawa in the interest of India, as he says; and now he tries to deprive some of my colleagues of their necessary appendage. (Laughter.) It may be painful for some Honourable Members to submit to that operation, and I would appeal to them not to be beguiled into accepting his very specious plea in this matter. Sir, my Honourable friend paid a very handsome compliment to Sir George Rainy. I myself endorse what he has said with regard to Sir George Rainy. But I must look at this question from my country's standpoint. An Englishman, Sir, is nothing if not a sturdy patriot of his own country, a virtue in which many of us are lacking. My Honourable friend went further and said that he will sign blindfolded any agreement to which Sir George Rainy is a party. Well, he has already performed that feat at Ottawa, which he now tries to support on the floor of this House. My Honourable friend, Sir George Schuster, has paid a very handsome compliment to the Indian Delegation. Sir, I am very gratified to learn this. He has gone further and eulogised those speakers who have supported the Agreement by their speeches. Will my Honourable friend also abide by their opinion with regard to the Ordinance Bill which is still pending? When he has paid such a handsome compliment to my Honourable friends, like Mr. Chetty, Sir Hari Singh Gour and Mr. Ranga Iyer, or even his own protegee, Mr. Modv, on the Ottawa Pact, is he prepared to take their opinion also in the matter of the Ordinance Bill? But, at that time, it

will be said that they are in the wrong. The real fact of the matter is that Government have got their fixed programme, and they only take whatever co-operation is needed from those who are willing to offer that co-operation at that particular stage and with that particular object which they have in view. When that object is achieved, they do not seek their advice. So, it should not be particularly gratifying to those Honourable Members to whom handsome compliments have been paid just now that they would maintain the same high position in the estimation of Government in other matters which fortunately they occupy so far as the present question is concerned. My Honourable friend, Mr. James, said that this Agreement will kill economic nationalism. Sir, my answer to that is that it will do nothing of the sort; it will only create economic Imperialism. (Applause.) My Honourable friend, Sir George Schuster, and my other friends like Mr. Chetty have, as it were, entered into a sort of mutual admiration society. (Laughter.) My Honourable friend, Mr. Chetty, says that at times it may be necessary to be honest rather than to be popular; he has gone further and admitted that the bulk of opinion in this country is against the ratification of the Ottawa Agreement. Sir, if that is so, why should we go against popular opinion? We claim to be the representatives of the people; we have come here on their suffrage, and we must respect public opinion. But, in the present case, there is no divorce between popularity and honesty. It is possible both to be popular and honest, and so far as the present question is concerned, I hold that to oppose the Agreement is to be popular outside and to be honest inside.

Sir, I shall now make one remark about my Honourable friend, Mr. Mody. My friend made his speech on the first occasion in a somewhat diffident tone and in a spirit of opposition. Yesterday he warmed up and exhibited a degree of emotion which was remarkable to many of us. He is quite welcome to change his opinion as often as he likes. We have come to associate these political somersaults with such gentlemen. But he went further and twitted some of the Members on the Opposition for their sudden and fancied interest in Indian industries, and specially the industry which he represents. Sir, has he forgotten how many times he has come with a beggar's bowl in this House and asked for protection for his own industry? I have been a Member of this House since 1924, and I do not remember any occasion on which his beggar's bowl has been refused by us. We have supported him with votes, we have supported him with funds from the Indian Exchequer, and we have given him whatever relief he really needed. But this ungrateful representative of the Bombay mill industry (Laughter) forgets all that we have done for him, and now twits us with harbouring unfriendly feelings to the industries of this country and to the industry which he represents. Sir, what is the reason for this sudden transformation in his vision? Perhaps the measure of protection which he now requires at the hands of the Government, and which will probably come up before this House in March next, is a sufficient index for this somersault which he has performed. Sir, we have been consistently supporting the mill industry in India as a national industry, and will he forget what part we played in the abolition of the cotton excise duty and granting other protections? We will now think twice before we support any extravagant claims of the industry. We shall be prepared, in spite of what he is doing today, to offer his industry whatever legitimate protection it is in need of. My Honourable friend, if I remember aright, opposed this Agreement in his first speech a few

[Mr. Gaya Prasad Singh.]

days back, but for some mysterious influence he has turned round and supported it now. My Honourable and esteemed friend, Sir Hari Singh Gour, has been waxing eloquent over the safeguards which he says he has provided in the Agreement. There can be, as has been pointed out by the distinguished Leader of the Independent Party, Sir Abdur Rahim, only two situations. Either we shall have responsible Government within two or three years, or we shall not have it. If there is responsibility in the Centre, there will be no need for safeguards; the autonomous Parliament will do whatever it likes. If there is not that measure of responsibility, as I fear there will not be, what is the worth of the professed safeguards? Today the Ordinance Bill is pending before the House. Has my friend or anybody else been able to check its progress even a little bit? So, Sir, the safeguard which he seeks to provide is only illusory and it should not blind our eyes to the realities of the situation. Sir, the Indian Fiscal Commission, with which your honoured name will be associated for all time, has in very clear and unmistakable terms laid down the policy to be followed in this respect. May I now conclude with the remark which your distinguished predecessor in office, Mr. V. J. Patel, made when he said: "No Ottawas for us"? With these few words, Sir, I oppose the amendment which is under discussion. (Cheers.)

**\*Seth Haji Abdoola Haroon** (Sind: Muhammadan Rural): Sir, on this Agreement so much has already been said that I do not want to go into it in detail; but I find that up till now those who oppose this Agreement have three arguments: the first is that whatever preference we have got from the United Kingdom is not much valuable to us and, second, that whatever preference we have given to the United Kingdom is very much harmful to this country, that is, it is Imperial Preference, and so on; and, third, that whether the Agreement is beneficial to India or not.

According to my views, I think that I have to take first the export business of India. You will see, especially within the last three years, on account of the depression of trade all over the world how we are proceeding and how India's trade proceeding with England and foreign countries. I find from the pamphlet published by Mr. Nalini Ranjan Sarkar, President of the National Chamber of Commerce of Calcutta, that he says that the present export trade of India is diminishing every year, whereas the export trade with the United Kingdom is improving within the last three years. According to his figures, he says the United Kingdom, including the British Empire, we had 38 per cent. export business in 1913-14: 36 per cent. business in 1929-30, 40 per cent. in 1930-31 and 44 per cent. in 1931-32: whereas with foreign countries we had 64 per cent. in 1929-30, 60 per cent. in 1930-31 and 55 per cent. in 1931-32. According to these figures the export trade of India is diminishing with foreign countries; he has not said anything why it is diminishing; but according to my view it is on account of three causes.

First, since the last three years Europe is enhancing the tariff wall against the Indian exports. My friends will find out from the report of the Majority Committee that on so many articles the foreign countries have already enhanced the tariff wall against India. The second thing,

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\*Speech not revised by the Honourable Member.

and, that is very important, is that on account of depression they are unable to get credit to purchase something from the outside world. I have personal knowledge of some examples. Why? Because the depression is not on account of the Agreement at Ottawa, but it is the general depression. Nobody knows when this depression will be over, but, if it is continued, I do not know what my friends, who are always arguing that there is no fear about the export trade of India and that we can find a market in foreign countries, will say. As a business man, I find that today my customers are merely purchasing 44 per cent. of my commodities, whereas in other foreign countries not any of them can purchase my goods more than 6 per cent. or 7 per cent., on the other hand England and Empire countries are purchasing together 44 per cent. of my export. You have got a schedule before you in the Majority Committee Report of all these commodities and this can be easily found out. I have very little time to give these in detail. But if today we throw out the Agreement according to the views of some of the Honourable Members on account of their political or other views, this closing up of the export business of 44 per cent. with the United Kingdom will be a disaster for Indian export trade. I want to give one example which I have seen of this kind—that of Greece in Europe which has prohibited the import of sugar into their country from any country except the United Kingdom, although the United Kingdom is not a producing country, but still they allow the United Kingdom, because they have a favourable balance of trade with the United Kingdom, whereas they have no favourable balance of trade with any other country. If these things are going on all over the world today and nobody can say when it will end, it is advisable for this Honourable House not to throw out the Agreement immediately without considering it. Just now, my friend, Mr. Gaya Prasad Singh, spoke in detail about each and every Member. I am very sorry, but if my Honourable friend had been a Member of the Select Committee, I am sure, with his open mind and justice, he would have been convinced that the Ottawa Agreement was favourable. I cannot convince those who, on account of political or other views, hold different views; but, I am sure, I can convince any business man who can sit with me and consider the Ottawa Agreement, item by item.

**An Honourable Member:** What about the agriculturist?

**Seth Haji Abdoola Haroon:** If any agriculturist can spare the time and have an hour's conversation with me, I shall try and convince him immediately he asks me to go to him and sit with him to examine this Agreement.

Another point is that the preference that we have given to the United Kingdom is Imperial Preference more favourable to them. If, however, you go through these figures, which are given by Mr. Sarkar, you will find that we get the United Kingdom and the whole of the British Empire importing into India not more than 44 per cent. of their imports whereas they are purchasing 44 per cent. of our exports. There is a general attack that, on account of these preferences, our industries will suffer—the soap industry and many others will suffer—I do not know how many. But, according to my view, I find that till 1930 there was only 15 per cent. of tariff value duty. On account of financial difficulties, the import duties were raised from 15 per cent. to 25 per cent. I do not know if

[Seth Haji Abdoola Haroon.]

this House will always say that this 25 per cent. duty should not be reduced even when the financial position of the Government of India improved. If that is so, then it is all right, otherwise I do not think a reduction of 5 per cent. duty will do much harm to Indian industries. However, Sir, there is plenty of time before the Tariff Bill comes before this House. The Select Committee must sit and consider each and every item. As my friend, Mr. Ramsay Scott, said, we shall have to consider all sorts of industries.

Lastly, I want to deal with the question whether this Agreement is favourable to India or not. As a business man, whenever we are making a bargain, we generally calculate how much we will gain or how much we will lose. According to that, I very much appreciate the time spent and labour taken by my friend, Dr. Ziauddin Ahmad, in preparing a list showing for the years 1929-30 how much we exported and how much we imported in respect of each and every item. According to his calculation, we find that we get preference from the United Kingdom to the extent of 7.4 crores, whereas we have to give to the extent of 2.35 crores preference in imports. As a business man, I have to look to these figures, and I find that according to the present Agreement India will not lose anything, but on the other hand she will gain something. That is my conclusion, and, therefore, I support this Agreement.

**Mr. C. S. Ranga Iyer** (Rohilkund and Kumaon Divisions: Non-Muhamadan Rural): Sir, I must congratulate Honourable Members on this side of the House, though such an opportunity seldom comes to me, on the good moderation which they have exercised while answering some of the arguments pressed from this side of the House again to enable them to revise their judgment, which I hope they will do, because the division time is near. My friend, the Secretary of my Party, Mr. Gaya Prasad Singh, took a cheerful view of the situation which shows that he at any rate will be open to conviction, and even though he may go into the opposite lobby for the mere sake of opposition, yet, at a later stage, we will find him and friends of his way of thinking clamouring for a place in the Tariff Committee and thus accepting the Ottawa principle which this Resolution embodies.

**Mr. F. E. James:** That is why I objected to the Committee.

**Mr. C. S. Ranga Iyer:** Sir, I also find that my friend, Mr. James, says he will object to it, but his objection will not prevent us from getting friends of Mr. Gaya Prasad's way of thinking to endorse the principle by going into the Committee. I also believe that Sir Abdur Rahim, the respected Leader of the Independent Party,—for whose judgment, even when we do not see eye to eye with him, we have great esteem,—will also see his way, if he loses, as he is certain to lose on this Resolution, to go into Committee and thereby accept the principle of the Ottawa Agreement.

**Sir Abdur Rahim:** No, no.

**Mr. C. S. Ranga Iyer:** I hear my friend, Sir Abdur Rahim, say "No, no," but a great parliamentarian like him should not take a non-co-operating attitude. It is better to have fought and lost than never to have fought at all. Even supposing Sir Abdur Rahim and I and Sir

Hari Singh Gour and all of us had signed the Agreement, even then by design we would have to ask Sir Hari Singh or Sir Abdur Rahim to stand up and oppose this motion. (Laughter.) Where is the Parliamentary Utopia, may I know, whose angelic denizens never differ among themselves? Parliamentary opposition is necessary for Parliamentary politics to thrive. But fortunately on this occasion it is not by design that Sir Abdur Rahim is opposing this Resolution; not that he is convinced that non-ratification is the only way. He never took up that extreme attitude—neither in his speech in this House nor in the Committee. It was with great admiration bordering almost on devotion that I, who worked with him in Committee, found this great public man—who had served the country as a Judge, an eminent Judge of the High Court of the province to which I have the honour to belong—would not take up that wholly intransigent attitude, faced with the facts which stared us in the face. Sir, as a Member of the Bengal Government, he was not afraid of courting unpopularity by going against surging public opinion in Bengal. Therefore, none on this side dare accuse him as a lover of popularity. He was not afraid of taking a bold stand against my late lamented leader, Mr. C. R. Das, who stood then for all that was vocal in the Congress, with whom I had to travel long distances in the South, to form the Swaraj Party. Therefore, none on this side can lightly accuse Sir Abdur Rahim of trying to fish for or to flirt with popularity. Today we are convinced that the course that he adopts is a course which is controversial. He is entitled to his judgment. He has formed his judgment *not* after a careful, lasting and satisfactory examination of the question as he himself has told us. He did not say—reject the Agreement. He said,—and he was entitled to that opinion,—give us more time to examine: let us have a Committee which will go into this question, examine the industrial experts and agricultural and other experts so that we may be in a position to say once for all whether the Agreement is to the advantage or the disadvantage of India. That was not an attitude which could be condemned as the attitude of a young man in a hurry. That was an attitude in keeping with his ripe age and his great experience, but some of us who differed from him understood that time was of the essence. The Government of India unfortunately were not the only party to the transaction. They could not postpone, owing to the fact that Great Britain is the important factor in the question, and owing to the fact that Great Britain had already agreed to Agreements with the other parts of Empire. It was impossible for us, some of us who do not, so far as our eye can see, visualise a state of affairs when we can afford to stand out of the Empire,—so long as we take up an attitude of association with the Empire nations even though as an absolutely equal nation—an equality which I see very near—so long as we take up that attitude it was not possible for us to say, postpone this Agreement, when no postponement was possible. What was the alternative? I at any rate was completely in sympathy with Sir Abdur Rahim's attitude in the Committee until almost the very last day when he went out of the Committee after making a statement. He was present when I made my statement. I had not made up my mind, and if he was present the next day I am certain he would have changed his mind. He was not present the next day, and, for full four hours, almost singlehanded, I had to put up a strenuous fight against the European opposition whose views I cannot say were blinded by prejudice. I had to put up a strenuous fight against the semi-silent unwillingness of the Government to give us the Committee that we wanted. That Committee is the Assembly Committee which would sit

[Mr. C. S. Ranga Iyer.]

in judgment from year to year on the working of the Ottawa Agreement. We said: "You chose the Ottawa Delegates without consulting us. The Assembly had no voice and no choice in that matter. Therefore, the Assembly must at any rate have the right of sitting in judgment over the working of the Ottawa Agreement and watch from year to year the rise and fall of the trade tide and report to the House so that the House will have an opportunity of discussion year after year," and either the Government, guided by the wisdom of that Committee, will denounce that Agreement in six months, a right which has not been taken away, or within three years the accumulated evidence which comes before this committee would be ample testimony for India wrecking that Agreement. I consider that, as I have said . . . (At this stage Sardar Sant Singh made an interruption.) The Honourable gentleman says that this attitude smacks of petitioning. His very presence here, if he will go and ask my friend, Pandit Jawaharlal Nehru, is the result of a mendicant policy of co-operation with the Government. We are here in defiance of the Congress mandate and if I did not believe in the policy of co-operation on equal terms, which I do not consider to be a policy of mendicancy, I would not have been here. I would have followed them through the great struggle as I have followed them in the past. Let my Honourable friend, if he does not want to petition, agree with the Sikh left-wingers in the Punjab, resign his seat here and take his proper place in the civil disobedience movement.

**Sardar Sant Singh:** On a point of personal explanation, Sir. My Honourable friend has entirely misunderstood me. I said that after the three years there would be a flood of applications in the bankruptcy Courts on account of the trade going down.

**Mr. C. S. Ranga Iyer:** That shows the Honourable gentleman's education has yet to progress on the Agreement and the Report that we have made. I would ask him very carefully to read it again, for every year there will be a Report published by the Government and the Committee appointed by the Assembly will have the opportunity of sending for witnesses, for representative men including the Honourable gentleman if he is sent from the Punjab as the custodian of the agricultural interests. (Laughter.) They will all be examined from year to year. That is not petitioning, that is application in a great cause. If the Government had not yielded on this fundamental matter, namely, the appointment of a Committee of enquiry which from year to year will sit in judgment on the Ottawa Agreement, I at any rate would have been today on the side of Sir Abdur Rahim. My regret is that he was not present on the last day after making his important, earnest, sincere statement—for who can charge Sir Abdur Rahim with insincerity, who worked with Gokhale in the great days of the Public Service Commission and wrote the famous dissenting minute, and I, knowing him as I do,—and my relations knew him better, one of whom happens to be a Judge of the Madras High Court,—who knew him well—knowing him as my friends and relations have known him, I can only say that he was animated by the most sincere of considerations when he decided to stand away. But we claim the equal right of sincerity. My Honourable friend, Mr. Gaya Prasad Singh, was mud slinging Mr. Mody. He said, Mr. Mody took up one attitude here, and another attitude elsewhere. We did not go into the Committee with a mind made up. (Hear hear.) He said and others have said the same

that Mr. Mody spoke with diffidence, almost like a sucking dove, (Laughter), before he went into the Committee, but he spoke with confidence—almost in defiance when he came out of the Committee. Why not? He knew more in the Committee. He worked with us late hours into the evening and for several hours by day, and arrived at . . .

**Mr. Gaya Prasad Singh:** It was a magic Committee.

**Mr. C. S. Ranga Iyer:** My Honourable friend says it is a magic committee. His attitude has not even the beauty of logic in it; it is too tragic for words. (Laughter.) His charging Mr. Mody with inconsistency only reminds me of the girl that Mr. Gaya Prasad Singh met thirty years ago. Mr. Gaya Prasad asked her, "What is your age?", and the young lady said, "Sweet seventeen". He met her 20 years ago, and asked her "What is your age?". She said, "Sweet seventeen". He met her three days ago, and she said the same "Sweet seventeen". He is all adoration over that lady, because she was consistent. (Laughter.) And he is extremely angry with my Honourable friend, Mr. Mody, because he is inconsistent. I know the sensational Press out in the country want Mr. Mody's head on a charger. Sir, when Oliver Cromwell returned from Ireland, one of his admirers went and said: "Don't you see the number of people in front of you? How popular you are!". Oliver Cromwell with his sense of humour said: "Many more would have liked to have my head on a charger." The question of popularity and unpopularity is a very dubious one, Mr. Gaya Prasad went for Mr. Chetty, because he went against the popular opinion in the country. According to the Secretary of my Party, a new slogan has got to be introduced into the English language: "Honesty is the best popularity." (Laughter.) Sir, we believe in honesty, not even as the best policy; we believe in honesty, not for policy's but honesty's own sake, and if we are willing to face unpopularity, as I have faced it in the past when conviction grew on me, it is because nothing like facing Mrs. Grundy whose swollen head before a strong will and conviction will become diminished. One man of conviction, said the great Burke,—and I may parody what he said—one man of conviction is equal to one million people without conviction. (Applause.)

**Diwan Bahadur Harbilas Sarda** (Ajmer-Merwara: General): I had no intention of taking part in this discussion, but as my colleagues on the benches behind me demand that I should speak as I was a member of the Ottawa Agreement Committee, I rise to say a few words. I signed along with two other Honourable Members the Minority Report and that Report embodies my views on this question of the Agreement. If we did not recommend to this House that this Agreement should be ratified, it was because, after a full consideration of the materials placed before us by Government and after considering the evidence that was given before us, we came to the conclusion that this Agreement was not in the interests of this country.

I am sorry that a worthy Member of this House found it possible to insinuate that it was because of political bias that we signed our Minority Report. I must here repel that insinuation with all the force that I can command. Sir, I have been nurtured and brought up on English literature and English thought. My training, during my career of 35 years in the service of the Government of India, and my education belie that insinuation. If I had any political bias, it is in favour of England and not against it.



[Diwan Bahadur Harbilas Sarda.]

Though our Report says that this Agreement should not be ratified I am of opinion that ratification is not the question that is before us. The question of ratification arises only when an agreement has been arrived at between the accredited representatives of two countries. The representatives of a Government can be taken to be representatives of a country if it is a self-governing country. As the Government of India is a subordinate branch of the Government of Great Britain, the position of the Indian Delegates was quite different, and there can be no question of ratification. The question is, whether this Assembly should accept the Agreement that has been arrived at between the representatives of the two Governments. I am quite prepared to accept that the Indian Delegates to Ottawa were inspired with the best of motives and I also believe that they did their best to secure as many advantages as they could for our country in the circumstances in which they were placed. My information also is that the Honourable Sir George Schuster, who was there in an advisory capacity on monetary and fiscal questions, laid the case of India in fiscal and economic matters as well as any patriotic Indian could have done.

Sir, it is gratifying to us to find that the British Government have declared that this Agreement will not be considered as ratified until this Legislative Assembly has accepted it. It is a matter for satisfaction so far as this thing goes. The principle underlying is that no economic arrangement would be binding on this country until the Legislature of this country accepts that arrangement. Though, constituted as the present Assembly is, this declaration is not of very great value, still the principle underlying this declaration and the acceptance by Britain of that principle are of great value and will be very useful to this country later on.

As regards the Agreement, we, who signed the Minority Report, thought and still think that so far as exports from India sent to England are concerned, we need not worry over the threat held out by England that a duty would be levied on those exports. Those exports are mostly of raw material and England will think twice before levying a duty on them and thus increasing the burden on the consumers in England, so far as wheat and tea and such other things are concerned. And so far as jute and other things are concerned, such as skins and hides, if England levied a duty on these imports, it will only increase the cost of production of her manufactures which will be a handicap for her in competing with the products of foreign countries of a similar nature.

As regards English imports into India, this Agreement gives their preference. One of our main objections to this was that by giving preference to English products and levying a higher duty on non-United Kingdom goods, we will increase the cost of production of our manufactures. We will have to pay more for certain things which we use in our manufactures and which are imported from non-United Kingdom countries, and the cost of production of our manufactures will, therefore, increase and we will not be able to compete with foreign manufactures of the same kind which come into India. It is perfectly true that by giving England preference we are helping English industry, but our objection to this Agreement is not that England would be benefited by this Agreement. If England benefits, we have no objection. We are not jealous of England. Our objection was that the arrangement would result in more loss than gain to this country.

Sir, England was a free trade country, but now she has become a protectionist country. When England adopted free trade, it was not because she thought that the world would benefit by free trade; not because she thought that for the good of the people nothing should be done to hamper free movement of goods, nor that, if no duties are levied, the requirements of people in different parts of the world would be supplied to them more cheaply. Situated as England was at the time, it was in her interests that there should be free trade. She was the mistress of the seas, and was a country far in advance of other countries in manufacturing goods for foreign countries. She found that her trade would expand and continue to expand if no duties were levied in any country on the articles which she imported into those countries. If England had not been a great manufacturing country, but a raw material producing country, her policy would have been quite different. England's aim is constant and it never changes. She understood perfectly well that free trade meant exploitation of a non-manufacturing country and accumulation of wealth and, therefore, of power for manufacturing countries. This truth

4 P.M. was fully understood by Adam Smith, the father of the British political economic science, when he proclaimed that it was good for the rest of the world that there should be free trade. He, however, understood all the implications of this question and he said that, when necessary, England should have protection. Those who have studied his book, "The Wealth of Nations", are aware that he thinks that so long as English manufactures go to other countries and find a market there, it is England's interest that there should be free trade for English goods; but he also lays down that when the state of affairs is different and manufactured goods are imported into England, England should have protection. I shall read a few lines with regard to this policy of England from a book recently published. It is Mr. Ramgopal's "Selections from Ingersol". In his Review of Professor Denslow's "Modern Thinkers", dealing with Adam Smith's theory, Colonel Ingersol, who was one of the greatest orators in America, says:

"I was glad to find that a man's ideas upon the subject of Protection and Free Trade depend almost entirely upon the country in which he lives or the business in which he happens to be engaged.....It gratified me to learn that even Adam Smith was no exception to this rule, and that he regarded all protection as a hurtful and ignorant interference *except when exercised for the good of Great Britain*. Owing to the fact that his nationality quarrelled with his philosophy, he succeeded in writing a book that is quoted with equal satisfaction by both parties. The Protectionists rely upon the exceptions that he made for England, and the Free Traders upon the doctrines laid down for other countries."

This shows that England's aim is constant and there is no inconsistency in England's attitude. England was once a free trade country, but now she is a protectionist country. Why? She knows that conditions have changed. As Japan and Germany and America are outstripping her in producing manufactured goods for the world's markets, she finds that it is necessary for her to have all the advantages of free trade so far as possible in the countries which she can influence and all the advantages of protection against free competition by other countries. Therefore, Sir, we must remember that England is working for her own good when she asks for preference for her goods. But it is our duty to consider what is for the good of our country.

I shall conclude with reciting a line which my friend, Mr. Shanmukham Chetty, quoted from the Great American poet, Lowell. He said:

"he is a coward who would not be in the right with two or three."

**Mr. R. K. Shanmukham Chetty:** Who dare not be in the right with two or three.

**Diwan Bahadur Harbilas Sarda:** Now, our Committee, Sir, consisted of 16 members. And I, with my two friends, we three have dared to be in the right, while my friend, Mr. Chetty, was in the majority of thirteen, whatever that number may signify. (Cheers and Laughter.)

**Mr. S. C. Mitra:** Sir, I had my opportunity to express my views about the Ottawa Pact on a former occasion and, in the meantime, nothing new has happened to change my views. Sir, I have no interest in any Tariff report which will require any backing by Government in the coming Winter Session, so I hold to my views. Now, I shall only say a few words as I know that the whole House is impatient to conclude this debate. I shall not take more than a few minutes—not about the Ottawa Pact, but about the Bhoire-Gour pact that is now before the House for ratification.

Sir, I hope, my friend, the Honourable Sir Joseph Bhoire, will explain how he will implement the conditions that have been arrived at between the two parties. I should like him to explain at least one thing which my friend, Mr. Gaya Prasad Singh, has so exhaustively dealt with, as to why the evidence before this Special Committee was not placed before the House and why the Committee was held in camera. Sir, it has become the fashion to follow English customs blindly. One can understand that in the case of the Government in England, where Ministers are responsible to Parliament, the convention has grown up for making Select Committee procedure secret, but here where speaker after speaker including the Deputy President who, in a very lucid speech tried to explain his position, have made a point that had the whole evidence and discussions, that were before the Special Committee, been known to the House, they also would have been similarly convinced. I cannot understand why then the whole proceedings have been kept secret. My friend, Seth Haji Abdoola Haroon, now repeats that if all the facts that were discussed in the Select Committee were known to Honourable Members, they would have been very much convinced. I hope the Honourable the Commerce Member, when he will rise, will explain why he made it a condition to keep everything secret—not only at the time when the Committee was sitting, but its proceedings are even now kept secret.

Then, there is another point. It is said that the Government of India Delegates at Ottawa were not free to exercise their judgment. Now, it has never been said, so far as I understood my Leader, Sir Abdur Rahim, that while in England, the members of our Delegation were denied any opportunity which was given to members of other Delegations. The whole case from our side was that, unlike the other Delegations from the Dominions or Colonies, the Government of India Delegates had no opportunity, while they were in India, to have instructions or to discuss these matters with merchants or the Chambers of Commerce, who are the persons who could rightly guide them. It would, I hope, be not derogatory to the members of the Delegation to say that they were not conversant with all the phases of trade relationships; and so I ask, what was the reason that the Government of India did not give them any opportunity, while they were here in India, to consult the trades people, the merchants and the Chambers of Commerce. That was the point that we wanted to make. We find that the other Delegations consulted their own people and had a list of the goods on which Britain wanted preference and also a

list of the goods in respect of which the Dominions wanted preferences. They consulted their own people and when they were in England, certainly there was no discrimination made of course. We urged that our Delegates, with the best of their intentions and with all their ability, were in a very unfavourable position to compete with or grapple with these experts.

There is one other point with regard to my Honourable friend, Mr. Ranga. Iyer's statement. I congratulate him on his very moderate and considerate speech. I know his heart is fully patriotic; and if he had urged anything in favour of this pact, it was only because of the idea that a great concession has been made to this Assembly. Sir, I think we have in this House the right to have a Select Committee and in the Select Committee we have a right to call for evidence. I do not think that is any new power that we have obtained by this pact. Now, from a perusal of the newspapers, I find that in the Round Table Conference Lord Irwin in his speech placed before them certain safeguards. Now, we know that formerly there were only three safeguards, but these have now been lengthened to eight; and the eighth safeguard is that the Viceroy must have power in his hands in case of any difficulty over relationship with any Colonies. That power in the Viceroy's hand is meant as a safeguard so that the future Legislature cannot go into a question like this. I think, on this matter also, the Commerce Member will explain to the House how the attempt that is being made to keep the future Legislature out of any power to deal freely with the Colonies, or the British interests will be dealt with. There is hardly any time at my disposal and I wanted to say a few words about my friend, Mr. Mody. I think he has a short memory, otherwise his predecessors from that constituency knew, when the Swarajists were in power, how they had to go from door to door to secure their interests. He was angry that though he gets a very fat salary from the Millowners, whose President he is, God has denied him a bulky body. I would only like to say this to him that he is not the only man who has stood for the interests of the industrialists in this House, but, times without number, I think, the Opposition have helped every industrialist who came with any such suggestion in all the cases of discriminating protection. As Mr. Gaya Prasad Singh remarked, it was Pandit Madan Mohan Malaviya who, with his whole party, walked out of the House as a protest on such an occasion. So, if he thinks that he is serving the interests of the millowners by making such absurd remarks, I think he is going too far. It may be that in the next Session Government may be too powerful to help him, but one day he will have to come to us if his industry is to prosper. I know the millowners, when it suited their purpose, went to the Congress. The whole agitation about boycott is financed by the millowners.

**Mr. H. P. Mody:** If my Honourable friend's real desire is to misrepresent what I have said, then I do not wish to prevent him from doing so. But I have said nothing of the sort which he is now suggesting.

**Mr. S. C. Mitra:** Sir, I accept his statement and I shall be the last person to continue in that way. Sir, one fundamental question I wanted to make clear. It is known to every student of economics that for a country which has got a developed industry or which has no manufactures of her own and depends entirely on agriculture, it is good for her to have free trade. It is in the interests of England to have free trade. But when other countries have begun to develop their industries, they have to

[Mr. S. C. Mitra.]

put tariff walls to protect their nascent industries and later on discriminating duties also. So, it was always to the interests of England, which is far ahead of any other country in the matter of manufacture, to have free trade, but when she found that other countries were raising high tariff walls, she was in a predicament. In 1897, I think, Canada first brought to the notice of the British Government to have recourse to protectionist measures to safeguard their interest against United States of America high tariff, but all along it was in the interests of England to stand against any protective policy. Now, as regards India, she could well afford to be free, were it a mere agricultural country. But we are gradually developing our own industries; so it is to our interest to have a protective policy to preserve our own industry. England is anxious to get hold of all the Dominions and Dependencies and is putting pressure on other countries not to raise but to reduce their tariff walls, because it suits her own purpose. I was glad when Sir George Schuster made the point quite clear that it is from the point of view of Imperial interests and not so much for India's good that they support the Ottawa Agreement. From that point of view, it is certainly supportable. In that case it must be agreed to with the willing consent of Indian public opinion. It may be said that this House, by a vast majority, will support this Ottawa Pact, but it is equally known that the whole country will almost unanimously oppose it. Sir, if these things in trade matters are forced on us, the desired effect that the Honourable Sir George Schuster wants to bring about will not be attained. On these considerations, I do not support this pact.

**Several Honourable Members:** The question may now be put.

**Mr. President:** I accept the closure. The question is that the question be now put.

The motion was adopted.

**The Honourable Sir Joseph Bhore** (Member for Commerce and Railways): Sir, it is not altogether an easy matter to reply to a debate which has extended for so many days and during the course of which so many individual issues have been raised. My task, has, however, been rendered comparatively simple by the great assistance which has been forthcoming from all quarters of the House in replying to an Opposition which, I venture to think, has grown weaker and weaker as reasoned and considered views have taken the place of prejudice or suspended judgment. One fact which has, to my mind, prominently emerged from the inquiry of the Committee appointed by this House is that the economic theories which we have heard enunciated are at the worst most dangerous will-o'-the-wisps and at the best fitful and uncertain guides. Their authors have qualified their premises with so many conditions, they have admitted so many imponderable, mitigating or aggravating factors, they have in so many cases gone no further than merely to indicate tendencies or probabilities that the results to my mind, are bereft of any practical value whatsoever. Yet, Sir, it is largely on the basis of these economic theories that much of the Opposition to the Agreement has been founded. I cannot within the time at my disposal do more than refer to one or two typically fallacious arguments of the kind

which are so largely used to support the opposition to the Agreement. It has, for instance, been argued that if we, as the result of preferences, granted by us, bought more largely from the United Kingdom, we would buy less from foreign countries and that they, in their turn, would not be able to afford to take as much of our exports as they have done in the past. While, on the other hand, if we, as the result of preferences we obtained, sold more largely to the United Kingdom, then we should meet with keener competition elsewhere from rivals ousted from the British market and that thus our trade would be merely diverted and not increased in the aggregate. My reply, Sir, not being an economist, is that of the practical man who can only claim common sense as his guide and authority.

Firstly, I would say that if, as a result of preferences obtained in Great Britain, I was able to sell more in that country and found there a larger, a more secured and sheltered market, then surely my capacity to meet competition elsewhere in that commodity would be all the stronger. Secondly, I would point out that an increase in our purchases from the United Kingdom need not necessarily mean a diminution of our purchases from foreign countries, nor a diminution of our sales to foreign countries. My conception of the cycle of economic cause and effect is entirely different to that of the opponents of the Agreement. They are entirely obsessed by a purely static idea of trade. To them its quantity and volume are fixed; if we sell more to one country, we must sell less to another, and if we buy more from one country we must buy less from another. If, Sir, this were correct, then surely it would put an end to all advancement and all progress. I place before the House the dynamic view of trade. If, as a result of these preferences, I am able to sell more to the United Kingdom, then surely my purchasing power is increased, and, with every increase in my purchasing power, I set in motion forces which induce wider and still wider markets for my goods.

Another typical instance I would take concerns the market for our agricultural produce. My Honourable friend, Mr. Burt, has dealt very conclusively with the case of agriculture. But, Sir, the position of the opponents of the Agreement in respect of the agriculturist, and the producer of primary products is so astonishing that I cannot refrain from summarising and paraphrasing it for the benefit of the House.

[At this stage Mr. President (The Honourable Sir Ibrahim Rahimtoola) vacated the Chair which was occupied by Mr. Deputy President (Mr. R. K. Shanmukham Chetty).]

As far as I understand their case, it is this. They say that an increased foreign market would be of little value to us, because the higher prices that might thereby be obtained might not filter down to the actual producer. Further, they contend, that the economic limit of agricultural production has been reached, and in any case they say that we want and can ultimately make use of all the produce of this country in the country itself. Sir, it appears to me that for sheer cynical indifference to the interests of the agriculturist this last statement would be difficult to beat. I may, I think, fairly contend that in view of the many millions of acres which have been added and are being added and will be added under the great new irrigation systems to the irrigable area of this country, in view of the millions of acres which are still available for cultivation and are still lying waste, in view of the improvements which are being made from year to

[Sir Joseph Bhore.]

year in agricultural practice as a result of science and research, the assumption that the economic limit of agricultural production has been reached needs more conclusive justification than the *ex cathedra* statements of economists who are bent upon establishing their case. I will leave it to the agricultural interests in this House to say whether it is not wider markets that are needed and urgently needed, for the agricultural produce of this country, and whether it is not just those wider markets that we are attempting to make available under this Agreement.

Sir, underlying many of the speeches that have been made in this House there appears to me to be an earnest desire to be assured that the interests of this country are being placed first in the framing of our fiscal and our tariff policy. If that is so, Sir, then my Honourable friends opposite and I are on common ground; there is absolutely no difference between us. I have always contended that my position has been based upon what I deem to be the interests of this country. The most hostile critics of the Agreement have admitted that the rejection of this Agreement will entail definite loss to this country. Those same critics have admitted that its acceptance must result in benefit to this country, though they attempt to outweigh those benefits by problematical losses in other directions. Am I not justified, then, Sir, in contending, as I have done, that we should be acting contrary to our own interests if we refused to avoid certain injury, if we refused to accept the prospect of certain advantages for fear of incurring conjectural losses? If those losses actually materialise, if we found ultimately that they were of so serious a nature as to justify an abandonment of the policy of reciprocal preferences, then, Sir, the way is open for us. I know that much doubt has been expressed in this House as to the value of the six months' notice clause in the Agreement. I think it was my friend, Mr. James, who pointed out on the last occasion what Sir Herbert Samuel, who had been frequently referred to in the course of the debate, said in Parliament on this point. I have now a copy of Hansard here and I should like to quote to the House the actual words employed by him. He said:

"Before that I was anxious to say that in one of those treaties embodied in this blue-book, in the Indian treaty, there is a provision to this effect; 'This agreement between His Majesty's Government in the United Kingdom and the Government of India shall continue in force until a date six months after notice of denouncement has been given by either party'. So it may not be so very wrong and so very foolish to suggest that with the Dominions' agreement also the same provision should be inserted."

Then he goes on to say again:

"Therefore, there can be no insuperable reason why, if the opinion of this House were unanimous, Government should not accept that proposal and ask the Canadian Government to agree to the insertion in the agreement of the provision, word for word, which has been inserted in the Indian agreement."

Opposition Members, Sir, who appealed to the authority of Sir Herbert Samuel will, I hope, accept his authority on this point as well.

The Leader of the Independent Party criticised with considerable warmth what he thought was the procedure that had been adopted by Government in preparing their case for Ottawa. The facts of the case are simple and I should like to give them to this House. Two days after Sir George Rainy had announced that the Government of India had accepted the invitation to go to Ottawa, a fully explanatory circular letter was addressed to all Chambers of Commerce, Trades Associations and

Local Governments asking for their proposals and suggestions in regard to matters to be discussed at Ottawa. Of the replies received some were useful; others were not; some dealt with the question on its merits; others refused to have anything to do with it on political grounds; but I can assure this House that it is quite contrary to fact to suggest that commercial opinion in this country was not allowed an opportunity of expressing itself. Further, we informed commercial organisations that commercial and industrial interests could send observers or representatives to Ottawa, a course which was followed by the United Kingdom and by the Dominions. My Honourable friend, the Leader of the Independent Party, asked why, before we granted preferences to Great Britain in this country, we had not consulted industrial interests here. I venture to submit to him that had he looked for it he could have found the answer for himself. In a nutshell it is this: the object of the question is evidently to suggest that we have entirely ignored the interests of our Indian industries. I would say that that suggestion is wholly without foundation.

[At this stage Mr. President (The Honourable Sir Ibrahim Rahimtoola) resumed the Chair.]

We have safeguarded the interests of those industries which have been given protection and those which may hereafter be given protection under our policy of discriminating protection. I may say that that policy stands and that nothing in the Agreement will be allowed to come in the way of the practical application of that policy. My Honourable friend has, I think, forgotten the fact that we have in no case promised Great Britain free entry or a particular rate of duty, but only a margin of preference so that it is entirely open to us to levy what rate of duty we think fit on any particular commodity. I would suggest to my Honourable friend that when people are determined to find sinister or questionable intentions, it is the easiest thing in the world to find them, to see them behind every act and every word that may be used by those whom they are determined to criticise. My only prescription for this form of ophthalmic disease is that my Honourable friends should discard the glasses darkened by suspicion which they are now using to look at everything which pertains to this Agreement.

Much has been made of the fact that the Members of this House who found a place on the Ottawa Delegation were not elected by the House. As far as I know, no Delegation was elected by anybody at Ottawa; but I do submit respectfully to this House that it is a terrible commentary upon the public life of this country, if it is possible for anyone to suggest that an elected Member of this House ceases to command public confidence, simply because he discharges a public duty and a public service at the request of Government. I am afraid that a good many Members of this House may have been influenced by the fact that many commercial bodies in this country have declared against the Agreement. I would ask the House to consider the facts of the case. Some of the most important of these bodies which vehemently, and without reserve of any sort, proclaimed their opposition on political grounds to any Agreement before one had been entered into or even discussed, now proceed to assess the economic merits of an Agreement which they have all along condemned root and branch. I ask this House whether, in these circumstances, it is possible for these bodies to free themselves from all bias—unconscious if you like—and become dispassionate and impartial critics of that Agreement. I want to make



[Sir Joseph Bhore.]

it clear that I attribute motives to no one; but I do assert that the verdict passed by these bodies on this Agreement is irretrievably tainted by the views previously held and expressed, and I would ask Members of this House not to allow their independence of judgment to be influenced by views proceeding from such sources. As to the recommendations of the Committee appointed by this House, I need say only very shortly that I accept them and I accept the amendment of my friend, Sir Hari Singh Gour. I would like here to add one word and that is that I am in entire sympathy with what I take to be the object which induced my Honourable friends, Dr. Ziauddin Ahmad, and Sir Zulfiqar Ali Khan, to write their respective minutes. Government will consider most carefully the best method of ensuring that the utmost possible advantage is taken of the new openings for our agricultural and other industries.

I come lastly to the amendment moved by my Honourable friend, Mr. Das, who, I regret, is not here. Mr. Das was not concerned with the economic merits of the Agreement; he wished the question of its acceptance or its rejection to be decided purely on political grounds. Now, I would submit that the position that political considerations must override all others entails as a corollary the position that economic consequences are of minor moment. But I would remind this House that some one must pay the price and it will be a vicarious payment. It will not be my Honourable friend, Mr. Das, who will pay. The consequences of the Import Duties Act would have waited for no one and what, in effect, my Honourable friend, Mr. Das, says to the Indian agriculturist, the Indian trader and the Indian industrialist is this: "Courage, my friend; it may be true that you may suffer losses; that your trade may be restricted and your markets may be lost; but we hold unimpaired the power of entering into a Trade Agreement and if that is no consolation to you in your losses, it may be to those who step over your bankrupt bodies and come after you". I ask the House whether we have not chosen the better way, for we have attempted, and I hope successfully, to save these people from these losses and we have left unimpaired for all practical purposes the power referred to.

My old friend, Diwan Bahadur Rangachariar, said, by concluding this Agreement, you have taken away the only bargaining factor we possess, the only *quid pro quo* which we have to offer for political advance. I would say to him, if you really think that the power of concluding a Trade Agreement is a bargaining factor, have we in any way impaired that factor by what we have done? Surely Article 14 is a complete reply to that accusation. But, Sir, I would ask the House whether it is not possible for us to view this question in entirely different perspective? Must we always talk in terms of war and strife, of bargains and conditions? If we can now talk the language of co-operation in the world of commerce and trade, may it not help a better understanding in the settlement of those great constitutional issues which are now awaiting final conclusion? (Applause from all sides of the House.)

Perhaps, Sir, the House will permit me to end on a personal note. My Honourable friend, Diwan Bahadur Rangachariar, said that it was an irony of fate that it should be left to the first Indian Commerce Member to introduce a measure of this character. Let me assure the House that Indian Members of Council, when they enter upon office, do not leave their consciences in the ante-chamber. (Applause.) I have

made no extravagant claims for this Agreement. I have indulged in no glowing prophecies for the future. I have told what I consider to be the plain and simple truth. I have said that we stand to lose and lose definitely if we do not accept this Agreement, that we stand to gain and gain definitely if we accept this Agreement, and that time alone can show whether any losses, which we cannot foresee at present, will outweigh the gains which we can. If, Sir, I had not honestly felt that I could wholeheartedly support this Agreement, then the task of introducing these measures would have fallen on other shoulders. (Applause.) I do ask the House most earnestly, emphatically by its vote, to endorse the acceptance of this Agreement. (Applause from all sides of the House.)

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The amendment that the Chair now puts to the House is:

"That after the words 'the 22nd September, 1932,' the words 'and approving the Report of the Committee set up by this Assembly on the 10th November,' be inserted, and that, at the end of the Resolution, the following be added:

'and further that he do give effect to the recommendations of the said Committee'."

The Assembly divided:

AYES—74.

Abdoola Haroon, Seth Haji.  
 Abdul Hye, Khan Bahadur Abul  
 Hasnat Muhammad.  
 Acott, Mr. A. S. V.  
 Ahmad Nawaz Khar, Major Nawab  
 Ahmed, Mr. K.  
 Allah Baksh Khan Tiwana, Khan  
 Bahadur Malik.  
 Amir Hussain, Khan Bahadur Saiyid.  
 Anwar-ul-Azim, Mr. Muhammad.  
 Bajpai, Mr. G. S.  
 Bhore, The Honourable Sir Joseph.  
 Bower, Mr. E. H. M.  
 Burt, Mr. B. C.  
 Chetty, Mr. R. K. Shanmukham.  
 Chinoy, Mr. Rahimtoola M.  
 Dalal, Dr. R. D.  
 DeSouza, Dr. F. X.  
 Dudhoria, Mr. Nabakumar Sing.  
 Dunn, Mr. C. W.  
 Dutt, Mr. G. S.  
 Fazal Haq Piracha, Shaikh.  
 Fox, Mr. H. B.  
 Gour, Sir Hari Singh.  
 Greenfield, Mr. H. C.  
 Gwynne, Mr. C. W.  
 Haig, The Honourable Mr. H. G.  
 Hezlett, Mr. J.  
 Hossack, Mr. W. B.  
 Hudson, Sir Leslie.  
 Ishwarsingji, Nawab Naharsingji.  
 Ismail Ali Khan, Kunwar Hajee.  
 Ismail Khan, Haji Chaudhury  
 Muhammad.  
 James, Mr. F. E.  
 Jawahar Singh, Sardar Bahadur  
 Sardar.  
 Lal Chand, Hony. Captain Rao  
 Bahadur Chaudhri.  
 Mackenzie, Mr. R. T. H.  
 Macqueen, Mr. P.  
 Meek, Dr. D. B.

Metcalf, Mr. H. A. F.  
 Mitchell, Mr. D. G.  
 Mitter, The Honourable Sir  
 Brojendra.  
 Mody, Mr. H. P.  
 Moore, Mr. Arthur.  
 Morgan, Mr. G.  
 Muazzam Sahib Bahadur, Mr.  
 Muhammad.  
 Mujumdar, Sardar G. N.  
 Mukherjee, Rai Bahadur S. C.  
 Nayudu, Rao Bahadur B. V. Sri Hari  
 Rao.  
 Nihal Singh, Sardar.  
 Noyce, The Honourable Sir Frank.  
 Pandit, Rao Bahadur S. R.  
 Parma Nand, Bhai.  
 Puri, Mr. Goswami M. R.  
 Rafiuddin Ahmad, Khan Bahadur  
 Maulvi.  
 Rajah, Rao Bahadur M. C.  
 Rajan Bakhsh Shah, Khan Bahadur  
 Makhdum Syed.  
 Ranga Iyer, Mr. C. S.  
 Rastogi, Mr. Badri Lal.  
 Rau, Mr. P. R.  
 Ryan, Mr. T.  
 Sarma, Mr. R. S.  
 Schuster, The Honourable Sir George.  
 Scott, Mr. J. Ramsay.  
 Shafee Dacodi, Maulvi Muhammad.  
 Sher Muhammad Khan Gakhar,  
 Captain.  
 Singh, Kumar Gupteshwar Prasad.  
 Singh, Mr. Pradvuma Prashad.  
 Sorley, Mr. H. T.  
 Suhrawardy, Sir Abdulla-al-Mamin.  
 Tottenham, Mr. G. R. F.  
 Wilayatullah, Khan Bahadur H. M.  
 Yakub, Sir Muhammad.  
 Yamin Khan, Mr. Muhammad.  
 Ziauddin Ahmad, Dr.  
 Zulfikar Ali Khan, Sir.

## NOES—27.

Abdul Matin Chaudhury, Mr.  
 Abdur Rahim, Sir.  
 Anklesaria, Mr. N. N.  
 Azhar Ali, Mr. Muhammad.  
 Bhuput Singh, Mr.  
 Dutt, Mr. Amar Nath.  
 Gunjal, Mr. N. R.  
 Jadhav, Mr. B. V.  
 Jog, Mr. S. G.  
 Krishnamachariar, Raja Bahadur G.  
 Lalchand Navalrai, Mr.  
 Liladhar Chaudhury, Seth.  
 Maswood Ahmad, Mr. M.  
 Misra, Mr. B. N.

Mitra, Mr. S. C.  
 Murtuza Saheb Bahadur, Maulvi  
 Sayyid.  
 Pandian, Mr. B. Rajaram.  
 Patil, Rao Bahadur B. L.  
 Sadiq Hasan, Shaikh.  
 Sant Singh, Sardar.  
 Sarda, Diwan Bahadur Harbilas.  
 Sen, Mr. S. C.  
 Sen, Pandit Satyendra Nath.  
 Singh, Mr. Gaya Prasad.  
 Sitaramaraju, Mr. B.  
 Thampan, Mr. K. P.  
 Uppi Saheb Bahadur, Mr.

The motion was adopted.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The original Resolution, as now amended, becomes the substantive proposition, and the Chair will now place before the House the amendments which were moved on the original Resolution. The question which I have now to put is:

"That for the original Resolution the following be substituted:

"This Assembly, before accepting the Trade Agreements made by the Government of India with His Majesty's Government in the United Kingdom, which was signed at Ottawa on the 20th August, 1932, and the Supplementary Agreement regarding iron and steel contained in the correspondence between Sir George Rainy and Sir Horace Wilson, dated the 22nd September, 1932, recommends to the Governor General in Council to refer the matter to the Tariff Board for the purpose of examining the said agreements so that if, on the report of the Tariff Board, the Indian Legislature were to come to the conclusion that the acceptance of the said Agreements are in the interests of India, this Assembly will recommend to the Governor General in Council to introduce such legislative measures as it might deem to be necessary and this Assembly further requests the Governor General in Council to request His Majesty's Government to postpone the operation of the Import Duties Act in the meantime."

The motion was negatived.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The next amendment which the Chair will put to the House is:

"That for the original Resolution the following be substituted:

"Having considered the papers on Ottawa Agreement, this Assembly recommends to the Governor General in Council that he be pleased:

- (a) to convey to His Majesty's Government that India is not prepared to consider any proposal for reciprocal trade benefits with the United Kingdom till such time as India is not given Responsible Self-Government; and
- (b) to convey to the Colonial Empire that no Trade Agreement will be entered into or Tariff concessions granted to any Colony which does not concede to Indians settled in their territory equal rights of citizenship."

The motion was negatived.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The next amendment which I will put to the vote of the House is:

"That for the original Resolution the following be substituted:

"That the Ottawa Trade Agreement between India and other countries of the British Empire be referred for scrutiny and report to a Committee of the Legislative Assembly consisting of the Honourable Sir Joseph Bore, Dr. D. B. Meek, Sir Hari Singh Gour, Mr. R. K. Shanmukham Chetty, Mr. B. Das, Sir Abdur Rahim, Mr. B. Sitaramaraju, Seth Haji Abdoolah Haroon, Sir Zulfiqar Ali Khan, Mr. G. Morgan, Mr. Muhammad Yamin Khan and the mover, with powers to co-opt not more than six specialists including persons interested in the industries affected by the Agreement; and to avoid dislocation in trade, this Assembly recommends to the Governor General in Council not to introduce a Bill to amend the Indian Tariff Act of 1894, till the report of the Committee has been adopted by the Assembly.

This Assembly further requests the Governor General in Council to urge on the British Government to suspend the operations of the Import Duties Act till this House has given its decision on the Agreement."

**Dr. Ziauddin Ahmad:** I beg leave to withdraw the amendment.

The amendment was, by leave of the Assembly, withdrawn.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): I shall now put the Resolution, as amended, as a substantive proposition to the House.

The question is:

"That this Assembly, accepting the Trade Agreement made by the Government of India with His Majesty's Government in the United Kingdom, which 5 P.M. was signed at Ottawa on the 20th August, 1932, and the supplementary Agreement regarding iron and steel contained in the correspondence between Sir George Rainy and Sir Horace Wilson, dated the 22nd September, 1932, and approving the Report of the Committee set up by this Assembly on the 10th November, recommends to the Governor General in Council that he do introduce in the Indian Legislature at the earliest possible moment such legislative measures as may be necessary to give effect to the Agreements in question, and further that he do give effect to the recommendations of the said Committee."

The Assembly divided:

AYES—77.

Abdoola Haroon, Seth Haji.  
Abdul Hye, Khan Bahadur Abul  
Hasnat Muhammad.  
Acott, Mr. A. S. V.  
Ahmad Nawaz Khan, Major Nawab.  
Ahmed, Mr. K.  
Allah Baksh Khan Tiwana, Khan  
Bahadur Malik.  
Amir Hussain, Khan Bahadur Saiyid.  
Anklesaria, Mr. N. N.  
Anwar-ul-Azim, Mr. Muhammad.  
Bajpai, Mr. G. S.  
Bhore, The Honourable Sir Joseph.  
Bower, Mr. E. H. M.  
Burt, Mr. B. C.  
Chetty, Mr. R. K. Shanmukham.  
Chinoy, Mr. Rahimtoola M.  
Dalal, Dr. R. D.  
DeSouza, Dr. F. X.  
Dudhoria, Mr. Nabakumar Sing.  
Dunn, Mr. C. W.  
Dutt, Mr. G. S.  
Fazal Haq Piracha, Shaikh.  
Fox, Mr. H. B.  
Gour, Sir Hari Singh.  
Greenfield, Mr. H. C.  
Gwynne, Mr. C. W.  
Haig, The Honourable Mr. H. G.  
Hezlett, Mr. J.  
Hessack, Mr. W. B.  
Hudson, Sir Leslie.  
Ishwarsingji, Nawab Naharsingji.  
Ismail Ali Khan, Kunwar Hajee.  
Ismail Khan, Haji Chaudhury  
Muhammad.  
James, Mr. F. E.  
Jawahar Singh, Sardar Bahadur  
Sardar.  
Jog, Mr. S. G.  
Lal Chand, Hony. Captain Rao  
Bahadur Chaudhri.  
Liladhar Chaudhury, Seth.  
Mackenzie, Mr. R. T. H.  
Macqueen, Mr. P.

Meek, Mr. D. B.  
Metcalfe, Mr. H. A. F.  
Mitchell, Mr. D. G.  
Mitter, The Honourable Sir  
Brojendra.  
Mody, Mr. H. P.  
Moore, Mr. Arthur.  
Morgan, Mr. G.  
Muazzam Sahib Bahadur, Mr.  
Muhammad.  
Mujumdar, Sardar G. N.  
Mukherjee, Rai Bahadur S. C.  
Nayudu, Rao Bahadur B. V. Sri Hari  
Rao.  
Nihal Singh, Sardar.  
Noyce, The Honourable Sir Frank.  
Pandit, Rao Bahadur S. R.  
Parma Nand, Bhai.  
Puri, Mr. Goswami M. R.  
Rafuddin Ahmad, Khan Bahadur  
Manlvi.  
Rajah, Rao Bahadur M. C.  
Rajan Bakhsh Shah, Khan Bahadur  
Makhdum Syed.  
Ranga Iyer, Mr. C. S.  
Rastogi, Mr. Badri Lal.  
Rau, Mr. P. R.  
Ryan, Mr. T.  
Sarma, Mr. R. S.  
Schuster, The Honourable Sir George.  
Scott, Mr. J. Ramsay.  
Shafee Daoodi, Maulvi Muhammad.  
Sher Muhammad Khan Gakhar,  
Captain.  
Singh, Kumar Gupteshwar Prasad.  
Singh, Mr. Pradyumna Prashad.  
Sorley, Mr. H. T.  
Suhrawardy, Sir Abdulla-al-Māmūn.  
Tottenham, Mr. G. R. F.  
Wilayatullah, Khan Bahadur H. M.  
Yakub, Sir Muhammad.  
Yamin Khan, Mr. Muhammad  
Ziauddin Ahmad, Dr.  
Zulfiqar Ali Khan, Sir.

## NOES—25.

Abdul Matin Chaudhury, Mr.  
Abdur Rahim, Sir.  
Azhar Ali, Mr. Muhammad.  
Badi-uz-Zaman, Maulvi.  
Bhuput Singh, Mr.  
Dutt, Mr. Amar Nath.  
Gunjal, Mr. N. R.  
Jadhav, Mr. B. V.  
Krishnamachariar, Raja Bahadur G.  
Lalchand Navalrai, Mr.  
Maswood Ahmad, Mr. M.  
Misra, Mr. B. N.  
Mitra, Mr. S. C.

Murtuza Saheb Bahadur, Maulvi  
Sayyid.  
Pandian, Mr. B. Rajaram.  
Patil, Rao Bahadur B. L.  
Sadiq Hasan, Shaikh.  
Sant Singh, Sardar.  
Sarda, Diwan Bahadur Harbilas.  
Sen, Mr. S. C.  
Sen, Pandit Satyendra Nath.  
Singh, Mr. Gaya Prasad.  
Sitaramaraju, Mr. B.  
Thampan, Mr. K. P.  
Uppi Saheb Bahadur, Mr.

The motion was adopted.

The Assembly then adjourned till Eleven of the Clock on Wednesday, the 7th December, 1932.



# LEGISLATIVE ASSEMBLY

Wednesday, 7th December, 1932.

The Assembly met in the Assembly Chamber of the Council House at Eleven of the Clock, Mr. President (The Honourable Sir Ibrahim Rahimtoola) in the Chair.

## QUESTIONS AND ANSWERS.

### TRANSFER ORDERS OF THE DISTRICT INSPECTOR OF SCHOOLS, DELHI.

**1602. \*Bhai Parma Nand:** (a) Is it a fact that the transfer orders of the District Inspector of Schools, Delhi, were issued by the Director of Public Instruction, Punjab, in view of his staying in Delhi for over five years, but the transfer has not been effected? If the reply to the above question be in the affirmative, will Government state the reasons why he is retained? Is it a fact that there is a Government circular under which no member of the Inspecting Staff should be kept for more than three years at a particular station?

(b) Has the attention of Government been drawn to the articles which appeared in the *Hindustan Times*, dated the 19th November, 1932, and the *Daily Tej* regarding the partial treatment of the District Inspector of Schools towards his co-religionists?

**Mr. G. S. Bajpai:** (a) The reply to the first part of the question is in the negative. The second part does not arise. As regards the third part I would refer the Honourable Member to the reply given by the Honourable Sir Fazl-i-Husain in this House on the 17th September, 1931, to his starred question No. 509.

(b) Yes. The articles referred to do not contain any allegation of bias specifically against the District Inspector of Schools.

### GAZETTED STAFF OF THE EDUCATION DEPARTMENT OF DELHI.

**1603. \*Bhai Parma Nand:** Is it a fact that the gazetted staff of the Educational Department of Delhi consists of Christians and Muhammadans only? If so, how is it that the Hindus who form the majority community of the Delhi Province have been denied representation in that department? What action do Government propose to take in this matter?

**Mr. G. S. Bajpai:** There are only three whole-time gazetted officers in the Education Department of Delhi, besides the Superintendent of Education, who is in charge of the Education Departments in three centrally administered areas, *viz.*, Delhi, Ajmer-Merwara and Central India, and who is an Indian Christian. Of these, the Assistant Superintendent for Girls' Education is a Christian and the District Inspector of Schools and the Headmaster, Government High School, Delhi, are Muslims. The present incumbents of the two last mentioned posts are the first Muslims to hold these posts permanently. Before their appointments the two posts had for many years been held by Hindu officers. Honourable Member will appreciate that postings of educational officers cannot be made exclusively with regard to communal considerations.

## TEXT BOOK COMMITTEE OF THE DELHI PROVINCE.

1604. **\*Bhai Parma Nand:** Is it a fact that the Text Book Committee of the Delhi Province is composed of eight Muslims, six Christians and six Hindus? If so, why is it that the proportion of Hindus is kept so low?

**Mr. G. S. Bajpai:** No. The Text Book Committee of Delhi Province is composed of five *ex-officio* members of whom three are Muslims and two Christians, 11 elected members of whom six are Hindus, three Muslims and two Christians, and five members nominated by Government, of whom two are Hindus, two Muslims and one Christian. The total Hindu membership is, therefore, eight and not six, as against eight Muslims and five Christians.

## TEXT BOOK COMMITTEE OF THE DELHI PROVINCE.

1605. **\*Bhai Parma Nand:** (a) Is it a fact that in the sub-committees of the Text Book Committee, Delhi, the Hindus are only one-fourth, while three-fourths consist of non-Hindus in every sub-committee? Is it a fact that books written and published by Hindus do not find favour with the sub-committee? Is it a fact that the number of Hindu pupils of the schools in Delhi Province is more than two-thirds of the total?

(b) Will Government be pleased to lay on the table the list of books rejected and approved for the libraries with the remarks of the members for their rejection and approval within the last five years?

(c) Are Government prepared to take any step to remove the grievances of the Hindus? If so, when?

**Mr. G. S. Bajpai:** (a) No.

(b) A set of the circulars issued by the Text Book Committee during the last five years which gives a list of books approved and rejected has been placed in the Library. It is regretted that the Honourable Member's request to be supplied with the remarks of the various members of the Committee on the books accepted and rejected cannot be complied with as the compilation of such a record would involve an expenditure of time and labour out of all proportion to the value of the results achieved.

(c) In view of replies to (a) and (b), this does not arise.

## TRAINING OF INDIAN NURSES IN THE LADY HARDINGE HOSPITAL, DELHI, AND THE LADY READING HOSPITAL, SIMLA.

1606. **\*Mr. Bhuput Sing** (on behalf of Mr. S. G. Jog): (a) Will Government please state whether there are Training Schools, attached to the Lady Hardinge Hospital, Delhi, and the Lady Reading Hospital, Simla, for the training of Indian nurses? If so, how many nurses were trained during the last four years at Delhi and at Simla?

(b) Out of the total number of nurses trained at the Lady Hardinge Hospital, Delhi, and the Lady Reading Hospital, Simla, how many were Hindus, Christians, and Muhammadans and of other communities?

(c) Are they held eligible for promotion to "sisters of the Hospitals" or "matrons"? If so, after how many years? Will Government please state the names of matrons and sisters in the Lady Hardinge and the Lady Reading Hospitals, with their pays and other allowances attached to their posts?

(d) When are Indian nurses held to be eligible for promotion to 'Nursing Sisters', either in the nursing homes or in hospitals?

**Mr. G. S. Bajpai:** (a) Yes; 29 in Delhi and four in Simla.

(b) Christians 26, Muhammadans three, Hindu one and other communities three.

(c) Yes; provided that they have had the requisite training and have had experience as staff nurses in charge of wards. A statement giving the information asked for in the last part of the question is laid on the table.

(d) When they have completed successfully four years' training in a recognised training school for nurses, have passed any other examination prescribed by the hospital concerned and have had experience as staff nurses in charge of wards.

*Statement showing the names, pay and allowances of the Matrons and Sisters of the Lady Hardinge Medical College Hospital, New Delhi, and Lady Reading Hospital, Simla.*

Name.	Pay.	Allowances.			
		Diet.	Dhobi.	Teaching.	Uniform.
LADY HARDINGE MEDICAL COLLEGE HOSPITAL, NEW DELHI.					
Matron.					
Miss L. M. Minchin . . .	Rs. 400 to 450 per ensem.	Rs. Nil	Rs. 5 per ensem.	Rs. Nil	Rs. 25 per quarter.
Nursing Sisters.					
Miss I. M. Reynolds . . .	200 to 250 per ensem.	50 per ensem.	"	"	"
Miss A. I. Massey . . .	"	"	"	"	"
Miss E. Mitchell . . .	"	"	"	"	"
Miss E. Harris . . .	"	"	"	"	"
Miss B. M. Barnham . . .	"	"	"	"	"
Miss Hastings-Price . . .	125 to 150 per ensem.	"	"	25 per ensem.	"
LADY READING HOSPITAL. SIMLA.					
Matron.					
Miss Mellowes . . .	250—15— 350.	50 per ensem.	6 per ensem.	"	8 per ensem.
Assistant Matron.					
Miss King . . .	170—10— 250.	"	"	"	"
Sister.					
Miss Beo . . .	150—5— 200.	"	"	"	"
Temporary Sister. (9 months).					
Mrs. Kollett . . .	150	"	"	"	"
Junior Sister.					
Miss Nath . . .	100	25 per ensem.	3 per ensem.	"	3 per ensem.



**DEMAND OF SECURITY FROM THE KEEPER AND PRINTER OF THE *NATIONAL CALL*, AN ENGLISH DAILY TO BE STARTED FROM DELHI.**

1607. **\*Mr. K. P. Thampan** (on behalf of Shaikh Sadiq Hasan): (a) Will Government please state if, when the keeper, printer and publisher of the *National Call*, a new English daily, to be started at Delhi filed declarations under the Press and Registration Act of 1867, before the District Magistrate, he was asked to furnish securities of Rs. 1,000 each as keeper and printer of the *National Call* Press and newspaper separately?

(b) Will Government explain the reasons that weighed with the authorities concerned to demand security from a paper yet to be started?

**The Honourable Mr. H. G. Haig:** (a) Yes.

(b) Security was demanded under the provisions of sections 3 (1) and 7 (1) of the Indian Press (Emergency Powers) Act, 1931, as the District Magistrate had reason to believe that the person making the declaration had been associated with anti-Government activities.

**Mr. Gaya Prasad Singh:** Will Government kindly state if in the order of the District Magistrate specific reasons have been specified or not?

**The Honourable Mr. H. G. Haig:** I am afraid I am not in a position to say precisely what was specified in the order.

**RE-EMPLOYMENT OF RETRENCHED PERSONNEL OF VARIOUS COMMUNITIES IN THE OFFICE OF THE ACCOUNTANT GENERAL, CENTRAL REVENUES.**

1608. **\*Mr. Gaya Prasad Singh:** (a) Is it a fact that in the office of the Accountant General, Central Revenues, members of various communities have not been re-employed in the same proportion in which they were retrenched in March, 1932? If so, do Government propose to take early steps for the re-employment of retrenched personnel of various communities in the same proportion in which they were retrenched?

(b) Is it a fact that some fresh recruits belonging to the minority communities, some of whom have not even passed the recruitment examination, have been appointed, whereas a large number of the retrenched personnel of the same office belonging to the majority community, and who have passed the recruitment examination, are still out of employment? If so, why?

(c) Is it a fact that in the case of the Accountant General, Bengal, definite instructions were issued that the retrenched personnel of the various communities should be re-employed in the same order in which they were retrenched? If so, will Government be pleased to state why a different practice has been followed in the office of the Accountant General, Central Revenues?

**The Honourable Sir George Schuster:** Enquiry is being made and a reply will be laid on the table in due course.

**ENHANCEMENT OF FEE FOR THE REGISTRATION OF TELEGRAPHIC ADDRESSES.**

1609. **\*Mr. Gaya Prasad Singh:** (a) Is it a fact that in October, 1931, the fee for the registration of telegraphic addresses was enhanced from Rs. 15 to Rs. 25 per address per year, and from Rs. 7-8-0 to Rs. 15 for six months, in spite of the protests of the interests affected?

(b) Is it a fact that the enhanced rate was in force till the 15th August, 1932, but it was reduced to Rs. 20 per year from the 16th August, 1932?

(c) Will Government kindly state the revenue derived every year from these registrations during the five years previous to the enhancement of the rate, and how this revenue was affected by the increased fee; and what is the position now since the 16th August, 1932?

(d) Do Government propose to revert to the old rate in the interests of the trade and commerce of the country?

**Mr. T. Ryan:** (a) No. The enhancement was made first; the protests were received subsequently.

(b) The rate was reduced from the 10th August, 1932, after consideration of the protests to which reference has been made.

(c) The revenue derived from the registration of public abbreviated addresses during the five years 1926-27 to 1930-31 previous to the enhancement of the rates was in thousands of Rupees 463, 479, 486, 485 and 481 respectively. As a result of the enhanced fee introduced from October, 1931, there was an increase in revenue in 1931-32, the fees collected during the year being 531 thousands. As a result of the reduction from Rs. 25 to Rs. 20 in August, 1932, there has been some decrease in revenue but it is not possible to ascertain the full result of the change until it has been in force for at least a year.

(d) Having regard to the charges made for the registration of telegraphic addresses in other countries and the value of the concession to the public, Government are satisfied that a charge of Rs. 20 in India is moderate and do not propose to revert to the rate which was in force prior to October, 1931.

#### MISAPPROPRIATION CASES OF POSTAL OFFICIALS IN THE PUNJAB POSTAL CIRCLE.

1610. **\*Kunwar Hajee Ismail Ali Khan** (on behalf of Mr. M. Maswood Ahmad): (a) Will Government be pleased to furnish the following information for the last three years so far as the Punjab Postal Circle is concerned:

- (i) the total number of cases of misappropriation by postal officers,
- (ii) the total number of postal officials prosecuted,
- (iii) the total number of officials convicted by courts, and
- (iv) the total number of officials discharged or acquitted?

(b) Will Government be pleased to state whether in the Punjab Postal Circle the courts held responsible for misappropriation persons other than those prosecuted by the department during the last three years?

(c) If the reply to part (b) be in the affirmative, will Government be pleased to state whether the officials actually held responsible were prosecuted by the department and, if not, why not?

(d) Will Government be pleased to state particulars of the officials referred to in part (b) above?

(e) Will Government be pleased to state whether the Postal officials acquitted by courts were re-instated in their posts forthwith and if not, why not? Is such re-instatement required by the rules?

**Mr. T. Ryan:** Information is being collected and will be placed on the table of the House in due course.

#### RECRUITS TO THE BRITISH ARMY IN INDIA AND BURMA.

1611. **\*Mr. Nabakumar Sing Dudhoria:** Will Government be pleased to state:

- (a) the number of recruits that have been made to the British army intended to come out to India and Burma;
- (b) whether it is a fact that raw youths whose ages vary from 16 to 18 years have largely sought recruitment to such armies of late; and
- (c) if the answer to part (b) is in the affirmative, the percentage of youths of such ages in the already recruited armies?

**Mr. G. R. F. Tottenham:** (a) No portion of the British Army is specially recruited for service in India.

(b) Except for boys recruited for special purposes for example as buglers, the minimum age for recruits is eighteen years. Government have no information regarding the number of persons under that age who have attempted to enlist.

(c) Does not arise.

#### THE CRIMINAL LAW AMENDMENT BILL—*concl'd.*

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Further consideration of the motion:

"That the Bill to supplement the Criminal Law, as amended, be passed."

**Mr. Lalchand Navarai** (Sind: Non-Muhammadan Rural): Sir, I feel fortunate that I have to speak first on this Bill today. I am not used to give vent to expressions which are harsh or disagreeable, but I must, in my humble way, lay a strong protest against this Bill which is very drastic and oppressive. Sir, I, as a lawyer, know that there are sections in the Indian Penal Code dealing with waging war against the State, but I would like to know from the Honourable the Law Member or the Treasury Benches if there is any law which can apply to them when they wage war against the public and under what sections can they be punished? Sir, this is really waging war against the public so far as this Bill is concerned. It is not only a war with the Congress, it is not only with the parents and guardians, but it is a war with all people, inclusive of, I must say, the last but not the least, the Press of India. Sir, it appears to me that the claim that the Honourable the Home Member makes in this House that it is very necessary that this Bill should be enacted for the purpose of putting down civil disobedience has no foundation. I think it will suffice for me if I were to place before the House a contradiction to that statement in the pronouncement of His Excellency the Viceroy himself. In his speech on the 5th September, 1932, His Excellency said thus:

"The no-rent campaign in the United Provinces has died out and the red shirt movement in the North-West Frontier Province was rapidly brought under control. Over the greater part of India the mass of population is no longer concerned with the civil disobedience movement."

Sir, in the face of this statement and the fact that since then nothing has happened to show that this civil disobedience movement has revived, it does not appear to be necessary at all that this Bill should be enacted at a time when the new constitution is to come in. Sir, in certain quarters they very rightly think that the intention of the Government Benches is not to enact this Bill for the purpose of combating the civil disobedience movement, but to create a coercive measure for the purpose of making the country accept the constitution and work it under its fear. If that is the intention, it is not a laudable one at all. If the new constitution is bad, certainly it will not be worked; but if it is good, it will be worked and there will be no necessity of such Ordinances or Bills being passed. It is the good-will of the people that should be secured; it is not by coercive measures or by disastrous Acts that it can be obtained. I, therefore, submit that the very first basis for the passing of this Bill, namely, that there is necessity of putting down civil disobedience, falls through.

Then, Sir, considering the Bill, we find it very drastic. Waging war, as I said, has really been done in this case. There were several amendments, and very reasonable ones, put up in order to see that the rigour of this Bill was minimised, but one and all have been refused. That is the mentality with which this Bill is being passed. Then, there is a great fear that when a war has been waged in this House with the result that they have been able to pass this Bill, what will be the consequence of it, when it goes out into the country for being worked? We know how the unscrupulous police have worked the Ordinances, and unless a very vigilant eye is kept on the police and proper instructions are given to them, we will consider that the war will only begin when this Bill goes out into the country and is handled by the police. Sir, we know that armed with such powers, they will consider themselves the rulers of the country and they will say that they are the masters of all that they survey. They will use this Act in a manner which will be very objectionable; they will make *lathi* charges and will not hesitate to use their fire arms. Therefore, this law is likely to be used very wrongly and I think it behoves Government at least to see that the police make use of this Act moderately. The most important feature of the Bill is that Government have given all powers to the police. Whenever they were asked that the powers should be given directly by a complaint to a Magistrate, the reply was: "No; the Act will be minimised to such an extent that it will not serve its purpose." That is however not justifiable. Then, Sir, considering the Bill itself, what we find is that it is bad from the very beginning. Though it is styled to be temporary, it is not temporary when it has to live for three years.

Considering clauses 2 to 7, we find that their provisions are so worded that they will be misused. The words which were suggested in the amendments for improvement have all been refused. With regard to the picketing clause specially, I submit that it is a very hard one, when there is no demarcation line drawn, and it aims, as has been said by the Home Member, at putting down picketing of any nature, which is certainly unreasonable. With regard to this, I may mention an incident which happened the other day. While Mr. Jadhav was speaking on this clause, asking for its deletion, Rao Bahadur Captain Lal Chand got up to oppose Mr. Jadhav, and, Sir, what happened? The Press published all that he said in my name, and it was said in the papers that the opposition came

[Mr. Lalchand Navalrai.]

from Mr. Lalchand Navalrai. It was an unfortunate event and the correction, of course, came the next day, but the mischief was done. Sir, I assure the House and the Press that I cannot possibly go into the nominated shoes of Captain Rao Bahadur Lal Chand (Laughter) and I hope the Press will in future be careful to distinguish between me and the Rao Bahadur.

**The Honourable Mr. H. G. Haig** (Home Member): I hope the Honourable Member does not blame the Ordinances for that. (Laughter.)

**Mr. Lalchand Navalrai:** Sir, I suggested that there ought to be a line drawn and that line should be that peaceful picketing of a harmless nature should be allowed. But that also has not been conceded. Then, with regard to clause 8 of the Bill, the parents have been made punishable, and the sympathy of the parents and guardians has no doubt to go away on that account.

Lastly, I would refer to the effect of it on the Press. Sir, the Press is powerful everywhere; it is the Press that governs the Governments in other countries. But here it is quite different, because here it is the foreign rulers who rule the Press and gag the Press so that the grievances of the public could not be ventilated. It may be that one or two papers committed mistakes, but on that account it cannot be held that the law must be so strict as to gag the entire Press of the country. The effect of this is to leave the currents to work underground. I submit that these drastic measures, which have been incorporated into this Bill, could not be introduced in any country where the Press makes public opinion. Here there has been a great check on the Press in giving utterances to grievances of even a reasonable nature. With these words, I oppose the passing of this Bill.

**Sir Abdur Rahim** (Calcutta and Suburbs: Muhammadan Urban): Sir, I cannot allow this Bill to pass on to the Statute-book without entering my final and most emphatic protest. Sir, the Bill has been discussed clause by clause, and I should be doing injustice to the House if I were to attempt to discuss the clauses over again. What I wish to point out is, and I do so with absolute confidence, that this is not merely bad law, but it purports to abrogate whatever rule of law we have, to regulate the political activities in this country; this measure seeks to substitute executive discretion and power for the judgment of the Courts.

Now, that is a thing which, I submit, cannot be justified at all. We have heard a great deal about what is called the dual policy. I say, that there can be no such thing as a dual policy. There can be only one policy—a policy either of progress towards freedom or going back towards obscurantism and bureaucracy. It is said that the new constitution will provide for responsible Government and, therefore, it is necessary that we should arm that Government with powers which will enable the Government to preserve law and order in the country. Is it necessary really to enact a law of this character in order to preserve law and order, to ensure peace in the country? I know that my Honourable friend, the Home Member, thinks that it is, but unless he is prepared to lay down that what his Government think is right, or that the Government are always right, and, therefore, popular opinion cannot count at all, then and then alone this Bill can be justified.

Only yesterday we heard a great speech from the Honourable the Finance Member who is just now not in his seat; it was a very eloquent speech appealing for co-operation and that appeal was very generously responded to even on this side of the House. May I ask, if today Government are prepared to respond to appeal for co-operation from this side of the House? Co-operation, if I understand the word at all, must be in the nature of participation in the counsels of Government. But how can there be any co-operation if the Government think that they are always in the right and they only ask us to endorse their policy? That is the state of things to which we are reduced at present. If this is co-operation, I am afraid that it will not advance any cause which even the Government may have in view. What we have been told and what lies underneath this measure is this: that the Congress is out for civil disobedience and we want a law of this character to check and suppress the manifestations of that movement. We have argued time after time and pointed out that provision after provision go far beyond the scope of any such measure. I have pointed out that there are sections in the Penal Code, the Criminal Procedure Code and the other penal laws by which it is possible for the Courts to deal with crimes which can be fairly described as civil disobedience. But the case of the Government, I understand, is: "No; that is not sufficient; the Courts are unable to deal with manifestations of civil disobedience; you must arm the executive with absolute discretion in the matter and you must oust the jurisdiction of the Courts, so that the civil disobedience movement can be effectively dealt with." That, Sir, is a proposition which we do not accept and which we dispute entirely. I have pointed out and it has been pointed out by other Honourable Members that the Government do not need such a law so far as activities in the nature of civil disobedience, or whatever it may be called, are concerned. Government can meet all these activities with the ordinary law, because the Congress policy is not to escape the law, but to face its penalties fully and, if necessary, to fill the jails. That is their policy. Since no such law as this is needed for that purpose, we argue that the object of this law is something else, it is something more; and that is, to strike at the political liberties and the political rights of the people in general. I notice in the papers that the Round Table Conference has sanctioned and has given their approval to the power of issuing Ordinances being retained by the Governor General; not only that, but that power is to be extended to the Governors of Provinces as well. Even that apparently is not sufficient . . . . .

**An Honourable Member:** Ordinances for all time.

**Sir Abdur Rahim:** Yes; as has been rightly pointed out, the Governor himself can pass Acts. If this is not superseding the Legislature altogether, I should like to know what is. The Governors can pass Acts of their own without any reference to the Legislatures, without being under any necessity as at present for certifying legislative proposals which are submitted to the Legislatures and rejected by them. Even all that is not sufficient: we must pass laws in anticipation of the future Government which will give that Government absolute power to deal with the political rights and liberties of the people in any way they like. Now, I ask, is this the way by which the Government seek our co-operation? Is this the response which they give to the co-operation which was

[Sir Abdur Rahim.]

extended to them only yesterday? Today they have a splendid opportunity to give a proper answer to the gesture held out by my friend, Sir Hari Singh Gour, and some of his colleagues on the Nationalist Benches. I ask, if the Honourable the Home Member will rise to the occasion and persuade his Government that, after the way this Assembly has sanctioned the Ottawa Agreement, which must be of great economic advantage to Great Britain, when this Assembly has shown so much generosity at the sacrifice, as I think, at the great risk at any rate, to our own industries, will the Honourable the Home Member persuade his colleagues that now the time has come when they must adopt a different attitude? No, Sir, co-operation is sought only from us for all their measures. That is not the sort of co-operation which will improve matters. It will only show to the people that whatever we may do to comply with the wishes of the executive even in matters of the greatest importance, the executive are obdurate, they will not listen to any reason, they will not listen to any entreaties, to any supplications from the representatives of the people on this side of the House. They are bent upon pursuing their own course. They think that their judgment is infallible, they cannot go wrong, and whatever be the popular opinion, that must be wrong, and not they.

Now, Sir, that is not the attitude which will advance self-Government in the country or the smooth working of law and order. The Government should realise that they also can make mistakes at times. May I allude to what happened in connection with the scheme of the Simon Commission? Representatives of the people were called in conference by Lord Irwin, and they warned him emphatically and clearly that a proposal like that would not meet with the approbation of the people. A Commission like that could do no useful work, but he persisted in his course, and what was the result? We know that for nearly four years agitation has been going on growing in intensity every day, and yet we are no nearer the Constitution. It has not in any way tended to pacify the people. I say, it would be wise for the Government to listen to popular opinion at times. This is a measure which is opposed entirely to public opinion in the country, I mean the Indian public opinion. I have not seen in any newspaper or any speeches on any public platform supporting a measure of this character . . . . .

**An Honourable Member:** What about the *Statesman*?

**Sir Abdur Rahim:** I said Indian public opinion.

**An Honourable Member:** What about the Bombay Council and the U. P. Council?

**Sir Abdur Rahim:** Sir, I am not an advocate, I could not possibly be an advocate of anything like civil disobedience movement, having spent my whole life on the Bench and the Bar throughout in helping the administration of law, but this is not the sort of law which will ensure peace and order in the country. It may suppress certain manifestations for the time being, but it will not ensure the smooth working of any constitution. That is my main objection to this Bill.

As regards my Muslim friends on my left, it was pointed out that only the other day in Chittagong how a certain section of the Muhammadan population of that town suffered at the hands of the police and the military. I think the Honourable the Home Member said that the account was not true. I have not seen the official denial, but I may remind him that an outrage of a far more serious character occurred in a village in Barisal not very long ago, an outrage which was described by the organ of the Labour Party in England as even worse than that of Jallianwala Bagh. We tried our best to obtain some remedy, some investigation into what happened, but no such inquiry was vouchsafed to us. Only a departmental inquiry was held, and nobody yet knows what the result of that departmental inquiry was. Sir, if you have a bad law, a law of general application which every law must be, its operations are bound to affect every community and every individual alike. The whole point, therefore, is, it is not a question between Hindus and Muhammadans or any other community or sect, but the only question is whether it is a good and proper law to have on our Statute-book. I know, Sir, communal feeling and communal distrust is so strong now that our decision on almost any question even though it has nothing whatever to do with any particular communities is deflected by that feeling. This is very unfortunate. It cannot be too strongly deprecated, but there it is. But I appeal to the Government that they should not take advantage of this feeling and thereby put on the Statute-book a law which cannot be justified in the light of reason or experience.

Sir, one last word of appeal to the Government. I know that appeals to the Government Benches coming from this side produce no effect, but yet I venture to suggest to the Government Benches that from my own experience of public life, a pretty long experience, I can assure them that a law of this character will not help in any way to achieve the object they have in view. The object they have in view is, I take it to ensure peace and order and progress in the country. If that is the object then a law of this character is bound to be resented by the people. The people are bound to think that this is a law passed by arbitrary authority against their interests, and if that is the popular feeling, if every Indian thinks like that or the bulk of Indians think like that, then, in that case, the Government cannot benefit by a law of this character. Sir, perhaps it is too late for the Government to reconsider their position. At the same time, it is in their power to see that the law, harsh as it is, arbitrary as it is, should be enforced with consideration and kindness towards the people, not with the object of suppressing their liberty, but with a view to seeing that only persons, who infringe the law, who do harm to the community, are dealt with under this law.

**Mr. Arthur Moore** (Bengal: European): I think that the Honourable the Law Member (the Leader of the House) and the Honourable the Home Member are entitled to be issued pilots' certificates, because their patience and skill have so far found a smooth passage for this controversial measure. My Honourable friend, Sir Abdur Rahim, has gone back to what he considers the original sin, the power to issue Ordinances, and he has criticised the fact that apparently at the Round Table Conference it is proposed that certain reserve powers of that character should exist under the new constitution. Well, my Honourable friend must know that those powers exist in every constitution in the world. He must know that in the



[Mr. Arthur Moore.]

British Constitution there is not only such a thing as the Royal Prerogative (Laughter.)—the Royal Prerogative is a reserved power—there is also the power of issuing Orders in Council. But I would call the attention of my Honourable friend, Sir Abdur Rahim, to what the Government are actually doing, for I congratulate the Home Member and the Government that they have taken the bold constitutional course and have come to this House and asked it to pass this Bill, and have not been content to rely upon Ordinances. I would like also to congratulate the large majority of the House on the support which it has given to the Leader of the House and to the Home Member in their long and cheerful labours on behalf of what is essentially the cause of public security and tranquillity. I would say to my Honourable friend that I know of no better augury for the working of the new constitution than the obvious growth of the sense of responsibility not only in this House but in the Provincial Legislatures. This is the same House which, in its first Session in January, 1931, by as large a majority as it has lately been giving to Government shelved the Bill for the suppression of outrages in Bengal, and was clearly hostile to the Press Bill and the Unlawful Instigation Bill, measures which the Government in fact withdrew. Sir, I think we have learnt our lesson, and I would call the attention of those Honourable Members opposite who still oppose the passage of this Bill to the fact that the Provincial Legislatures have been passing the Supplementary Security Bills by very large majorities, in some cases by clear unofficial majorities, and in some cases without even a division. Nor has this House ever within the last fifteen months refused to give the Government the necessary powers to deal with an abnormal situation. To my mind, recognising that the Legislatures of this country are very sensitive to public opinion, that is a convincing proof that His Excellency Lord Willingdon and his Government, and the Provincial Governments dependent on it, are correctly interpreting the wishes of the great majority of the citizens of this country in the firm stand that they have taken against the civil disobedience movement, and that the majority of the citizens of this country increasingly disapprove of lawlessness. But I will go further than that and say to my Honourable friend that the Legislatures, by the steady support that they are giving to Lord Willingdon, are going far to prove that those who fear to give the Indian Legislatures a greater measure of responsibility and to India a larger measure of self-Government, are wrong, and that the offer of responsibility does bring the sense of responsibility. One more point. The signatories to the Minority Report conclude their report with the observation that repressive measures have never been known to cure political discontent. Well, I do not think it has ever been suggested that this measure is designed either to kill or to cure the natural and proper aspirations of every self-respecting man in this country to see India a great, united and self-governing nation. As I understand it, the object of this Bill is to check those who seek to create a chaos that would wreck those aspirations. Those aspirations are being diligently pursued by British and by Indians in friendly counsel together in London. But in addition to securing a fair field for its successor there are constructive measures which the present Government can undertake in order to remedy discontent. I should like to give the strongest possible expression to the hope that in addition to passing this necessary security measure, the Finance Member will vigorously prosecute his scheme for the creation of an economic council and the undertaking of an economic

survey, and that the Provincial Governments will follow suit and undertake new and bold economic plans for the development of the resources of their provinces.

**Maulvi Sayyid Murtuza Saheb Bahadur** (South Madras: Muhammadan): Before recording my opposition to this Bill, I have to recite one Persian couplet and explain its meaning. It runs as follows:

*"Ba har range ki khâhi jâma mi posh,  
"Mun andâze qadat ra mi shanâsam."*

It means, "You may put on various kinds of dress to evade identification, but I can, from your very stature, make out what you are and what you are about."

Sir, this Bill is going to be passed into law apparently with the object of suppressing the civil disobedience movement, but we on this side at any rate are strongly of opinion that it is to curb our elementary rights, to undermine nationalism in India, to muzzle the Press, and to torpedo public opinion. The object of the Government at the outset was to have a perpetual measure of this kind on the Statute-book. Fortunately for us the Select Committee did not approve of it. In this connection, I am of opinion that our friends who walked out of the Select Committee were not just in having done so. Had they remained in the Select Committee, they would have proved themselves more useful to the country than the course they resorted to.

Sir, the civil disobedience movement, when it was revived for the second time, I may say, was the result of unwise policy on the part of the Government. I will even go to the extent of saying that it would not have been revived had the present Government pursued the policy of Lord Irwin. When Gandhiji was prepared and even signified his willingness to extend the hand of co-operation, Government would not accept it on the plea that the no-rent campaign had already been started. We are of opinion that if an occasion had been offered for an interview between Gandhiji and Lord Willingdon, matters would have ended in a different way. The civil disobedience movement would not have been revived. It was said by the representatives of the Government that this measure was deemed highly necessary, rather indispensable for meeting the civil disobedience movement, but the other day my Honourable friend, the Secretary of the Nationalist Party, proved to the hilt that this movement was constitutional. The Law Member and the Home Member could not question the authority quoted by him. Of course, much stress was laid on the point that maintenance of law and order was quite necessary and, therefore, a measure of this kind was equally necessary, but legal luminaries, I mean the Leader of the Nationalist Party and the Leader of our Party, have thrown sufficient light on the point that no new laws were necessary to meet even the civil disobedience movement. Then, my Honourable friend, the Secretary of our Party, has shown with facts and figures and, with the help of photos, what kind of excesses were committed by the police and another friend, the Chief Whip of our Party, I mean Mr. Abdul Matin Chaudhury, also proved what atrocities were committed in the North-West Frontier and in Chittagong. I may bring to the notice of the Government that a challenge has been thrown to Sir Samuel Hoare by Miss Wilkinson on the Mardan incident. Mardan is a place which is supposed to be the centre of the Red Shirt activity.

**Major Nawab Ahmad Nawaz Khan:** You are referring to Charsadda.

**Maulvi Sayyid Murtuza Saheb Bahadur:** Charsadda is a place near Mardan. I know as much geography as my Honourable friend knows. During the visit of the delegation to Mardan in the North-West Frontier Province, the delegation saw a completely unprovoked assault by the police on an unarmed and inoffensive crowd. The Political Agent asserted that the outrage had been committed not by the police, but by the Red Shirts dressed in stolen police uniform. Miss Wilkinson that morning asked the Inspector General of Police and the Deputy Chief Secretary and the Deputy Commissioner whether the statement of the Political Agent could be true. All replied: "Of course not." The Deputy Chief Secretary, according to Miss Wilkinson, added, if you had told us you were going there, we should have given clear instructions that beating should not take place while you were there. Miss Wilkinson challenged Sir Samuel Hoare to confirm or deny the story from official sources and it has not been denied as yet. In the face of such excesses, which are committed by the police, how will you be justified in arming the Government with additional power? It is good-will which is necessary to enlist the co-operation of the governed and not drastic measures of this kind. The Government should realise:

*"Raiyyat chu bekh asto Sultan darakht."*

The governed are like the roots of a tree and the Government may be compared to the tree. If the roots get weakened, the tree falls to the ground. If the Government create disaffection and ill-will, instead of good-will and affection with the governed, they cannot run the government smoothly.

Sir, the House may be aware of the fact that the present officiating Governor of the North-West Frontier Province, I mean His Excellency Mr. Cunningham, whom many of us had the honour and privilege of knowing personally, went on horseback travelling a distance of about 150 miles receiving Pathans, Khans, even of the place mentioned by my Honourable friend, Major Nawab Ahmad Nawaz Khan, which was a centre of "Red

12 Noon. Shirt" activities. How was he received? He was received warmly. He showed affection towards the governed, and they reciprocated the same feeling with due respect. Sir, the Government of India and also the Provincial Governments may take a lesson out of this incident and realise that affection breeds affection, good-will breeds good-will, and that without good-will and affection, they cannot go on governing India.

Sir, much stress was laid by my Honourable friends, the Law Member and the Home Member, on the point that the present Government were interested in this measure only because of two things—first, in order to maintain law and order and to leave a good legacy to the would-be Government of India, assuring us, at the same time, that the Government were ready to make over almost all of their powers to the new Government under the new constitution. Now, our Leader has shown as to what kind of power we are going to get under the new constitution. Sir, it is an illusory power,—a power which will perpetuate the Ordinance-raj, a power which will undermine the very vitality of India, a power which will sap the whole of the Indian nation. (Hear, hear.)

Sir, the House is fully alive to the fact that dyarchy has proved an utter failure in many a province. Of course it proved successful, they say, in the province I come from, I mean Madras. But even there we know what kind of success the dyarchical form of Government has produced.

Now, so far as our Liberal friends are concerned, they thought at the outset that they could successfully carry on the administration under dyarchy, but very soon afterwards they all had to repent for having accepted office and they tendered their resignations, and we know what the evidence, that they gave before the Commission, was. They said, they were powerless, and that they could not do justice to their policies. Now, we are again going to have the dyarchical form of Government hereafter. Of course, the other day, it was shown that this measure is superfluous, and the only reason which was assigned by the Honourable the Law Member was that so far as picketing was concerned, the present law did not serve the purpose. But I would ask the Government as to under what law so many peaceful picketers have been and are being prosecuted? The fact goes to prove that the present law is quite sufficient to meet all these contingencies.

**The Honourable Sir Brojendra Mitter** (Law Member): No, Sir. They have been prosecuted under the Ordinance—not under the ordinary law.

**Maulvi Sayyid Murtuza Saheb Bahadur**: Our contention is that so far as peaceful picketing is concerned, there is nothing wrong in it. My Muslim friends should know that when prostitution was being picketed in Peshawar, they were not allowed to do that. I ask, how can any Muslim come forward now and say that prostitution and the liquor shops should not be picketed (Hear, hear) on religious grounds? Sir, prostitution and liquor shops should necessarily be picketed on religious grounds, as without that these vices must continue . . . . .

**Sir Muhammad Yakub** (Rohilkund and Kumaon Divisions: Muhammadan Rural): There is no such injunction of Islam that these things should be picketed. My Honourable friend is wrong.

**Sir Abdulla-al-Mámūn Suhrawardy** (Burdwan and Presidency Divisions: Muhammadan Rural): Is not the law of Islam enough to prevent Moslems from whore-mongering and wine-bibbing?

**Maulvi Sayyid Murtuza Saheb Bahadur**: If the laws of Islam cannot be enforced under the present Government, does it not become necessary that volunteers should come forward to help the Muslims in the observance of the laws of Islam?

**Sir Abdulla-al-Mámūn Suhrawardy**: Declare a *Jehad* and proclaim India *Darul Harb*.

**Maulvi Sayyid Murtuza Saheb Bahadur**: May I know, if my Honourable friend is prepared to declare a *Jehad*? Are you prepared to declare India, *Darul Harb*?

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Order, order. Please address the Chair.

**Sir Abdulla-al-Mámūn Suhrawardy**: I am prepared to follow a Muslim *Ameer* (Leader) and not a *Mushrik*.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): No interruptions, please.

**Major Nawab Ahmad Nawaz Khan** (Nominated Non-Official): With your permission, Sir, about the Peshawar picketing, . . . . .

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Order, order. Please resume your seat (addressing Major Nawab Ahmad Nawaz Khan).

**Maulvi Sayyid Murtuza Saheb Bahadur**: Sir, I have to make only one observation in concluding my speech. Throughout this Bill, Sir, no spirit of accommodation was displayed either by the Honourable the Law Member or by the Honourable the Home Member, as was expected of them. Our friends behind do concur with me in this view. Now, will they go with me into the same Lobby as I go to? (Laughter.) Sir, very reasonable amendments were all rejected by Government. I associate myself with the Leader of my Party and the other speakers in requesting the Home Member to kindly see his way to mitigate the rigour of this Bill, if not in words, at least in actual practice. With these few words, I oppose the motion.

**Dr. R. D. Dalal** (Nominated Non-Official): Mr. President, I rise to support the third reading of this Bill—the Bill to supplement the Criminal Law. Sir, the main impression which emerges from the discussions on this Bill extending over several days is the vital necessity of preserving law and order. It is inconceivable that this Honourable House could disregard this Bill, the object of which is to ensure the maintenance of law and order. If, however, it does disregard the Bill, I fear it will arouse the derision of all civilized nations of the world, because it would imply that the Indian Legislative Assembly is in favour of anarchy, disorder, and terrorist crimes. (*Mr. B. V. Jadhav*: “Nothing of the sort.”) I am strongly of the opinion that in the present deplorable circumstances this Bill is absolutely essential to the welfare of the people of India. I confess that it may not appeal to the Honourable Members whose vision is obsessed by suspicion, distrust, and misgivings. But, Sir, by bringing forward this Bill Government have only met a demand which has frequently been made to the effect that if emergency powers and special powers are required, they should be obtained by legislation. This Bill does not affect the law-abiding citizens. It will not do any harm to anyone who will not attempt to make orderly Government impossible. Sir, the Congress is admittedly the strongest and the best organised political force in India; and it has unquestionably succeeded in rousing the masses. This success is due very largely to the Vernacular Press. There is no doubt that a torrent of misrepresentation, perversion, and sheer invention has poured from the Vernacular Press. The vernacular newspapers have encouraged the spirit of lawlessness by praising to the skies every manifestation of defiance of the law, and have stimulated the centres in the occipital lobes of the cerebrums of their readers, that is to say, they have stimulated the lower passions of their readers by every means ranging from salacious advertisement to the condonation of murder. Mr. Gandhi, the Apostle of the boycott of British goods, is very keen on the advertisement of Indian goods. This idea goes no farther than the advice to buy British goods, which is common enough in England; and this Bill does not interfere in any way with this procedure. But it will be conceded that shopkeepers require protection from intimidation by picketers when leaflets are distributed falsely alleging that Manchester cotton goods are dyed with the blood and sized with the fat of cows and pigs. There is no burking the fact that in Guzerat, the chief centre of the so-called non-violent resistance to law, the boycott and intimidation

of officials and the incitement of the peasantry against payment of the Land Tax were carried very far. In normal times such intimidation can be dealt with by the ordinary law, but the widespread attempt to paralyse Government by the organisation of illegality has compelled Government to bring forward this Bill to protect officials and private individuals in the exercise of their lawful avocations and to protect the gallant and hard-tried police force from an incessant campaign of vilification and menace. Sir, I respectfully ask—does any right-minded Indian desire to return to the dreadful conditions of 1930 civil disobedience campaign, namely, the horrible carnage and bloodshed of Cawnpore, the ghastly tragedies at Sholapur, the dislocation of trade and business, hartals, frenzied appeals to boycott and obstruction, *lathi* charges, raids on salt pans, corrupting Frontier tribes, the looting and burning of foreign goods, murder, rape, and arson. If there is one thing which the people of India desire, it is to be saved from a repetition of the horrors of 1930. Sir, it has been urged that the fact that special powers are still necessary shows that the Ordinance X of 1932 has not met the civil disobedience movement and has failed in its purpose. I should have no difficulty at all to prove that the Ordinance X of 1932 has achieved a large measure of success, but as I deprecate long speeches, I shall bring my remarks to a close. Now, Sir, in conclusion I desire to refer to one important point, and it is this that every race and every class in India, deeply divided as they are in most respects, stand wholeheartedly together in their common desire for self-Government. To this end the British Government have pledged themselves, which is in line with the whole historic tradition of British statesmanship; and this pledge has been reiterated time and again. I am profoundly convinced that this Bill will allow the tender plant of responsible self-Government to grow and to develop from the various soils of British India and Indian States. I may add that this Bill will be a Monumental Bill to the eternal honour of the Honourable the Home Member for his efforts to deal with lawlessness, and that it will be remembered even when the necessity for it would not exist.

**Mr. E. H. M. Bower** (Nominated Non-Official): Sir, I rise to support this Bill. It is with great diffidence that I address the House. It is my first plunge into the stormy waters of debate, and in following so many experienced debaters I can only trust that Honourable Members will extend to me the indulgence that is usually accorded to one who is making his first speech in the House.

I represent, Sir, a community that has always stood for law and order and I also claim to speak as an Indian in the large sense of the word. I come from South India, where Anglo-Indians are considered by their Hindu and Muhammadian brethren as entitled not merely to a hearing, but to a friendly and a sympathetic hearing, on the problems that confront India. I claim the same sympathy and the same friendly hearing on the floor of this great House. If I should say anything that may seem to be diametrically opposed to the opinions of some of my Honourable friends opposite, I trust that they will consider that they are the utterances of one who was born in India, who has served India for over 34 years, and, above all, of one who loves India. Sir, as I listened to the speeches of so many of my esteemed friends opposite, I felt somewhat in the position of a very well-known young lady, Alice in Wonderland. Everything seemed to be topsyturvy. There was a feeling of unreality about the discussion. Member after Member got up and spoke of the perils to safety, and of

[Mr. E. H. M. Bower.]

the dangers to the public, underlying this Bill. Dangers to whom? One might think from the various speeches that the whole of India was in grave danger on account of the various clauses of this Bill. But what are the facts? Of the 352,800,000 people in India, something like 352,000,000 are either not affected by this Bill at all, or are *protected* by its provisions. Not one per cent., but one-hundreth part of one per cent. would furnish a figure far in excess of the number of people against whom this Bill is really aimed. I am not one of those who consider that every Congress member may be expected to actively dissuade his fellow countrymen from enlisting in the army. I do not consider that every Congress member is likely to wilfully disseminate false rumours with intent to alarm. But I do hold that in the ranks of the Congress there are many people who hold extreme views, men who live on the borderline of law and order, and who delight in occasional raids into the forbidden territories beyond. Perils to liberty,—liberty to do what? There is only one penal clause in this Bill which relates to what I might classify as a sin of omission, and that is the boycott. Every other penal clause relates to a definite sin of commission, an active thing, a thing done with deliberate intent to embarrass the Government and to interfere with the opinion of one's fellow-countrymen, and in some way, to prevent Government from carrying on their responsibilities in the control of law and order.

Sir, I shall not weary the House any longer. Honourable Members here are tired of the progress of the Bill, which has crept through this House on leaden feet, and I do think that Honourable Members would at this juncture appreciate far more than the highest flight of oratory, a brilliant flash of silence. Sir, I support this Bill.

**Mr. Bhuput Sing** (Bihar and Orissa: Landholders): Sir, even at this stage I rise to oppose this Bill as it is such a pernicious piece of legislation, although pernicious or odious does not sufficiently express its true character. Sir, despite the few nominal verbal changes and touching up with explanations and exceptions here and there, this Bill is still impregnated with the very spirit and essence of the odious Ordinances. A legislation which is on the face of it of so drastic a nature and is so thoroughly repressive in character should not have our sympathy and support. My own reading of this Bill is this: it aims at crushing all nationalistic movements everywhere; it intends to scotch all spirit of patriotism that is already abroad or may arise in the future. This Bill means to make positive inroads into our conceptions of private property and to penalise personal convictions and individual principles in matters concerning our vital interests. This Bill paves the way for the negation of all law and the institution of police and military in place of civil administration by effectively strangling the press, whose duty is to comment on the high-handedness of all sorts of public servants. This Bill in fact keeps the armoury ready to put down ruthlessly all manner of opposition that may arise when the next instalment of reforms proves disappointing, because my fear is that the coming instalment of reforms will be more unreal, more shallow, more superficial, more of an eye-wash than even what we have got at the present moment. This Bill would only fortify the future Government against all possible untoward contingencies that might occur in that event.

My Honourable friends, Sir Muhammad Yakub and Mr. Yamin Khan, have waxed themselves eloquent on the supposed or real misdeeds on the part of the followers of the Congress. I do not know whether my friends have knowingly or unknowingly or under inspiration attributed the causes for all the recent communal riots in this country entirely to the Congress movement. My Honourable friends conveniently brushed aside from their memory the orgy of plunder and carnage of the innocent Hindu population in Delhi after the execution of Ilaamdin, the assassin of Swami Shradhananda, and the infernal riots that raged for over a week over the whole city, nothing of which by any stretch of imagination has up till today been set down to the Congress. Again, Sir, what harm was there if those people who imagined themselves to be coerced by the Congress people, as my Honourable friends have averred, had sought the protection of the police and the magistracy, instead of getting themselves inflamed at the behest of the non-Congress leaders and taking the law into their own hands and freely using their *lathis* and daggers on people indiscriminately and bringing about infernal disorder in the society? Do my Honourable friends seriously contend that the law of the land was not quite adequate to meet cases of complaint from those people who thought themselves in any way coerced by the Congress workers? Need I remind my over-zealous friends that when cases actually came up before the courts after the riots, the people that came to be convicted were 99 per cent. non-Congress men? Need I also tell my Honourable friends that when the authorities adopted preventive measures for the recurrence of the riots in the future, the people that they had to exterr from the affected areas were all non-Congress workers, 99 per cent. of whom were disorderly bad characters and hooligans owning faiths different from that of the majority of Congress workers?

Sir, I cannot conclude my remarks here without quoting to my friends and others of their ilk what Father Verier Elwin says about the Congress in his most recently published book, "Truth about India: Can we get it?" published by the London firm of publishers, George Allen and Unwin, Ltd. The Father says this:

"We have indeed seen violence in its ugliest and most brutal form in India, but it has been on the part of the authorities, or of the communal partisans, not of Congress. Congress has, in fact, been the bulwark standing between the British official and the assassin. . . Nothing could be more unfair, nothing could be meaner, than to lay responsibility for the terrorist outrages in Bengal at the door of the Congress. They have no connection whatever with the Congress."

Sir, I hope you will kindly bear with me if I propose to acquaint the Honourable House with what a body of people, whose opinions neither the Government nor the representatives of the people in this House can treat lightly, have to say on the Ordinances, out of which this Bill arises. I mean, Sir, what that band of Scottish missionaries, who are now at their homes, have recently written to the Members of Parliament representing their Scottish constituencies. The letter is dated Edinburgh, September 20, 1932. With your permission, Sir, I would now read a few passages from that momentous letter, as they are so very germane to our present purposes. The letter goes on thus:

"We, a group of Scottish missionaries serving or having served in India, at present in this country on furlough or retired, but in more or less intimate touch with India, acting in our individual capacity, desire to acquaint you with our feeling of distress over the present situation in that country.



[Mr. Bhuput Sing.]

We cordially appreciate the efforts which the National Government are making to expedite the attainment by India of real self-government, but we are persuaded that those efforts are doomed to disappointment unless the Administration abandon or greatly mitigate their present policy of government by Ordinances.

We are not of one mind as to the extent to which the Ordinances introduced eight months ago were necessary for the maintenance of order. But we are all agreed that these Ordinances have created bitter resentment amongst almost all classes of people, and—most ominous of all—amongst many who were previously consistently friendly in their attitude to Government.

Government by Ordinance has meant, among other things, arrest and detention in prison without trial. Such a method of administration is surrounded by many dangers, and in this country would not be tolerated. In India, owing to the difficulty sometimes experienced of getting witnesses to give evidence or a jury to convict, it has been felt to be on occasions and in places justifiable. Sir Tej Bahadur Sapru, leader of the Constitutional Moderates, admitted that special measures were necessary when, after referring to the 'futility and folly' of the course pursued by Congress on the one hand and by Government on the other, he said: 'Government could have carried public opinion with them if only the Ordinances were not so drastic and if their administration had been conducted on more reasonable and moderate lines'.

But amongst possible causes of bitterness, we specially deprecate the practice which has grown up of arresting people on suspicion and at the end of a few weeks releasing them with the order to report daily at the Police Office and when they fail to do so, sentencing them to one or two years' rigorous imprisonment in class C, which apparently means that they are placed among ordinary criminals on the lowest scale of diet."

The letter then goes on to say:

"You will remember that in the House of Commons Major Milner and Sir Ernest Bennett gave detailed evidence of such treatment. From our knowledge of India we are certain that what they said as to its disastrous effects is in no way exaggerated. However peaceful things may be on the surface, there is very great bitterness. There is danger too that the severity with which the passive resistance to propaganda has been put down may tend to encourage the more irresponsible sections of Indian society towards a belief in agitation of a more secret and violent nature, and thus in certain directions have the effect of increasing rather than of diminishing terrorist activity.

For some months past we have been working for such a change of policy as we here suggest. We hoped to see it effected without any combined public protest on our part. But, as our silence has been misunderstood, we ask you as the representatives of the Scottish people to give the facts we have submitted to your earnest consideration to use your influence to bring about the desired change. To give the matter greater publicity we are making this an 'open letter' and sending it to the press."

Among the signatories are such eminent people as Henry Lees Adamson, J. E. Copeland, Norah M. Lindsay, Elsie L. Mackenzie, James Mackintosh, N. Macnicol, R. M. Macpail, E. Forrester Paton, E. R. Sutherland, W. S. Sutherland and W. S. Urquhart. Some of these men, I need hardly remind the House, are *ex-Vice-Chancellors* of Indian Universities. Lord Bishops, Principals of Colleges, Heads of Medical Missions or otherwise quite high-placed in missionary life. The following note added to the letter is also significant. The note says:

"The terrorist movement in Bengal which every self-respecting Indian reprobates, should not be confused with the civil disobedience movement, or with the non-payment of rent and taxes campaign in the United Provinces which naturally Government strongly resented."

Next, Sir, Rev. C. F. Andrews, who is acknowledged a true servant of Christ and somewhat of a *persona grata* with the Government, both here and at home, in a very thoughtful article under the caption of "Asia in Revolution", published in the October number of the *Modern Review*, after setting forth his generalisations on the subject about what

is happening in other Asiatic countries, says about the Indian situation and particularly about the Ordinances as follows. Again, with your permission, Sir, I quote a few passages bearing on the subject, from that thought-provoking article :

"In India, there has happened an all-important event, which has distinguished that country from all others. The revolt against Europe, on behalf of the peasants, has been carried on without bloodshed under the leadership of one of the saintliest figures known in human history, Mahatma Gandhi. He has been the one prophet and inspirer, who has roused the Indian masses as they have never been stirred before. And in doing so, he has successfully tried to keep the revolutionary movement entirely peaceful at the very time that it is attempting to throw off the yoke and become free. Thus, India has stood before the world, in sheer moral strength, as no other country has ever done before seeking to win her freedom, not by the sword, but by suffering. Even though the ideal has been blurred and marred by internal conflict, its universal appeal to non-violence by means of tens of thousands, both men and women, suffering joyfully imprisonment, has had such a response throughout the whole of India, that it may well be regarded as in the end invincible. It has also stirred the conscience of the whole world."

Further on he says :

"Now at this moment, owing to this clash of forces and ideas there has come a terrible deadlock. Emergency ordinances of such a drastic nature have been decreed by the Viceroy to have the force of law, that in every province something equivalent to martial law prevails. In a free country like Great Britain it is impossible to conceive of such a state of things as this. Private houses can be entered without warrant and private persons can be arrested in the same manner. Trials can be conducted in secret. . . ."

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Order, order. The Honourable Member is reading what has already appeared in all the newspapers. He should bring out the point he wishes to make in his own words. This is the second elaborate extract he is reading of matter which has appeared in every newspaper in India.

**Mr. Bhuput Singh**: I shall conclude now, Sir, in my own words: The effect of all these things, if the Ordinances and laws such as this remain on the Statute-book, will be that those who are now moderates and liberals will be converted into opposition; the police, when used in this punitive way, will get out of control. Trade with Great Britain will suffer worse than ever and the people themselves will refuse to buy anything British. The extreme revolutionary forces, which believe in violence rather than in non-violence, will get more and more in the ascendant. The British Government will be driven more and more to fall back upon the Muslim communal section and the landlords and princes. This will mean cleaving India in twain from top to bottom. In face of all that I have said above, I would be doing a distinct disservice to my country if I were to be a party to the passing of such a legislation as has formed the subject of such severe comments even at the hands of people who do not suffer and are not likely to suffer in any way from the Ordinance Bill.

**Mr. Uppi Sahab Bahadur** (West Coast and Nilgiris Muhammadan): Mr. President, I thought of recording a silent vote, but when I read this Bill again and again, I find I cannot give a silent vote. Today is a black day in the history of India, when we are going to pass a decree against ourselves and hand it over to the police to execute it. This Act is intended to restore peace and order in the country. It has been urged repeatedly on the floor of this House that peace and order in the country has been disturbed by the Congress, by Mahatma Gandhi and his followers. It is a common practice with powers that be to say about their weak opponents "give the dog a bad name and hang him". It is

[Mr. Uppi Saheb Bahadur.]

a common thing in the history of the world to say, if a man is in power, and if his opponent is weak and if the former wants to injure the latter, even if justice is on the other side, that the enemy is in the wrong.

There is a proverb in my part of the country that whether the Raja's cow falls into a tenant's well, or the tenant's cow falls into the Raja's well, in either the tenant is always in the wrong. That is always so. So also the trouble in this country has been attributed to the Congress and to the agitators. But really let us ask this question: if one Gandhi or even a hundred Gandhis were to go and ask the people to suffer like this, if they had no cause to suffer, will all these young men voluntarily go and suffer at the hands of the police? Certainly not. There is a carbuncle inside the body politic of India, and it must come out. It is the utter failure of the rule of the British Government for the last one hundred and seventy five years, the discontent caused by this is at the bottom of all this. The British economic policy has bled us white; their industrial policy has smothered our industries; their military policy has emasculated us. Herein lies the cause of the present unrest. People were fretting and fuming under the selfish rule, under the oppression, under the highhandedness of the British Government. We could not give vent to our feelings; we did not know what to do. Indian youngmen did not know what to do or how to give expression to their feelings of discontent and dissatisfaction. They were all along fretting and fuming, not knowing what to do. Here I am reminded of a Persian story which I read in an English book. There was a king who ruled his country very well. Everywhere in the country there was prosperity and contentment, and the people thought that the king was a god incarnate, and they began to worship him. When Satan saw that this king was being worshipped by millions of people as god, he became envious, and one day Satan, in the form of a snake, fell on the king and coiled round his neck and was about to give him a fatal bite. Then people immediately gathered, but did not know what to do. Whenever they attempted to kill the snake, he threatened to sting the king. Then astrologers were consulted. They suggested that the only way to save the king was to sacrifice a man everyday for the snake. Then arrangements were made to make sacrifices to save their king who was thought to be a god incarnate to those people. The prime minister came forward and sacrificed himself first, and every day this sacrifice went on. In the country every day for three or four months each family lost its flower, the best of its members. To save the life of one soul, hundreds of people suffered. One day it fell to the lot of the son of a poor blacksmith to be sacrificed, and he was carried away by the police to be sacrificed for the snake. This boy was the only mainstay of his father. The father did not know what to do. After some time he tore a piece from his loin cloth and put it on a piece of stick and ran through the bazar crying if there was anybody to follow him to kill the king who has been the cause of sorrow to hundreds. Then the whole mob went after him and killed the king as well as the snake. So is the case of India.

Sir, we are being emasculated by your military policy, we are being killed by your industrial policy, we are being starved on account of your economic policy, and we have been quietly suffering all these years. All our industries have been deliberately killed by your policy, now we are an emasculated, poverty-stricken people. We helped the British

Government during the Great War. India was the first to go to the front and save their country. We fought for whom? Not for India, but for the British Government. We were told that Britain was fighting for securing the liberty of the world, that it was a war to save humanity, but immediately after England won the war, what happened? She became arrogant, and what was the result? What was the reward that we got after she came out victorious? Immediately after the conclusion of the war, we got the Rowlatt Act. Soon after, we saw that thousands of people were shot dead at Jallianwalla Bagh in Amritsar. All these things went home to us, and we were fretting and fuming, not knowing what to do. It was at this time that Mahatma Gandhi stepped into the arena, because he saw that the country was going to rack and ruin on account of the policy pursued by the British Government. He only gave expression to the pent up feeling in the country. Then, what was the state of the Mussalmans? What did Lloyd George say to the Mussalmans in the days of the war? He said that they were not fighting against the Turks; they were not fighting against the Mussalman community; but we found, as a matter of fact, their one desire was to bring about disruption, to dismember the Muslim power, and, in that, they have succeeded. At this our heart is still burning. These are only some of the causes that have led to the present unrest. But the Government believe that they can cure the present trouble by passing an Act of this character. Do you think, Sir, that the British Government will be able to do it? Certainly not.

You take the history of the last ten years. When the non-co-operation movement was first launched, there were not many people to come forward to court imprisonment and suffering. But when, in 1930, the civil disobedience movement was started, we know how many thousands of young men have come forward to sacrifice their everything, all for the sake of patriotism, for the cause of their country. What is the reason? The reason is that they feel that Britisher is not ruling India for Indians. Sir, I know, as students we were taught 14 benefits of British rule. We were brought up with those ideas. We thought the Britishers were angels on earth, we thought the Britishers were heaven born and angels, and that to do anything against them was sacrilege. Now, when we grew a little older and began to see a little bit of the other side for ourselves, our heart began to fret and fume. We saw the reality of the picture, we now realise what our true position is.

Now, Sir, I must warn the Government from my place on the floor of this House, as a well wisher of the British Government, as one who wishes to see the British Government to remain for some time more in this country, of course with a change of heart, that they should change their policy and methods of rule in this country. Otherwise it will be for their own sorrow. Remember that the new generation of boys are all growing up in an entirely different atmosphere from the one in which we of the last generation were brought up. Boys and girls are all growing up with the bitterest hatred against the present Government, because of the wrong policy they are pursuing to keep down the people. What do they see every day? They see every day in villages and towns that their brethren are beaten like dogs. I have seen with my own eyes, how the police have treated the civil disobedience people. I have seen, Sir, how young boys have been beaten and thrown on the roads and dragged along the road with their faces downward. (*Cries of "Shame, shame"*.) This is what our young men are seeing every day . . . . .

**Mr. Muhammad Yamin Khan** (Agra Division : Muhammadan Rural): Were these Moplah boys?

**Mr. Uppi Saheb Bahadur:** I do not care whether they are Moplah boys or Hindu boys. Is it not this Government that have strangled not one or two people, but 23 Moplahs in a wagon in the train tragedy? Is it not the Britisher who has enacted the Blackhole of Calcutta in this land in recent years? My Muslim brother asks, if they were Moplah boys. I know only too well what the Government did in 1921 with the Moplahs. The world has so far heard of only one wagon tragedy with regard to Moplahs, but there were two such tragedies. The Honourable the Home Member might refer to 1711, but what about the No. 8 wagon. Well, the world does not know that. Sir, my Muslim brother asks, whether the boys, who were being beaten, were Moplah boys. I do not care whether they were Moplah or Hindu boys. Every human being is a human being. (Applause from the Nationalist and Independent Benches.)

Then, Sir, when Mahatma Gandhi was having his historic march to Dandi, I remember, he said,—these were almost his own words—“I am quite aware that by stopping a few crores of rupees, the Britishers will not be driven out of India. I am quite aware that by getting a few crores of rupees, the unemployment and poverty problem of India is not going to be solved, but what I want to do by starting this civil disobedience movement is to show to the world in its naked form the satanic character of the British Government”, and Mahatma Gandhi has been able to show to the world how we are being governed today. Hereafter, Sir, we are not going to be governed, but we are going to be put down, we are going to be crushed. Every one of us will have to remain with our life in our hands. We do not know which police officer we have displeased. Hereafter we are going to get “common sense rule”. We have been crying for autonomy, but hereafter we are going to get “common sense” rule. That is what the Secretary of State has told us. Hereafter we are going to get, instead of autonomy, autocracy, that is what we see in the papers. This is how we are going to be ruled. Do the British Government, if they have got any sense, any statesmanship, believe that they would be able to govern India by this Act? Certainly not. They may be able to remain here in India, they can be here in India, they can get on very well, if they show a change of heart, but not by oppression and suppression. (Cheers from Nationalist and Independent Benches.) I have much to say but you will come down upon me, I am afraid, (*Some Honourable Members*: “Go on.”) I was saying that Mahatma Gandhi said in his speech that he wanted to expose the British Government, and he has succeeded in it, succeeded to the core. Now, this Act is intended to restore peace and order in the country. If the British Government are thinking of giving us peace and order in the country in this way, then such a peace there is in hell also. (Cheers.)

**Several Honourable Members:** The question may now be put.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): I accept the closure. The question is that the question be now put.

The motion was adopted.

**The Honourable Mr. H. G. Haig:** Sir, in rising to make my last speech on this Bill, I desire to thank the House for the patience and forbearance with which they have listened to me throughout these debates. I should be ashamed to reckon up the number of my speeches, but the House will recognise that these were not all voluntary efforts on my part. I as well as they would gladly have dispensed with many of them. However patient Honourable Members may be, there comes a point of satiety, as has been delicately indicated by my Honourable friend, Mr. Bower, in his admirable maiden speech. Therefore, I shall be brief.

I have observed in today's debate a fear that the provisions of this Bill may be administered with undue rigour. On the contrary, my hope is that once these provisions are placed on the Statute-book for a reasonable period, there may, as time goes on, be less and less necessity to use them. It has repeatedly been explained in the House that the sections dealing with boycott and picketing will only come into operation where an active movement necessitates this form of protection. With regard to the administration of the Press provisions, I have already promised to address Local Governments. To a large extent I regard this Bill as an insurance against the recrudescence of trouble, and the less it is necessary to use these powers the better I and all officers of Government will be pleased.

And now we have come to the end. We have differed and discussed, we have compromised, and we have voted. We have fought a good fight, and I hope I may say, a fair fight on both sides, and now we must go forward to the decision. But, Sir, I would end, not on a note of gloom, but on a note of hope. We have been passing through troublous times. It is difficult enough under any conditions to shift the balance of power in a vast country like India, to set up a new system of Government, to establish new political conceptions and relations. During the last few years, the more extreme elements, while claiming, and I doubt not, genuinely believing that they were advancing the good of their country, have in fact done all they could to impede our task, to destroy the hope of peaceful progress, and to disturb the foundations on which the new State is to be built, the foundations on which every free State must be built,—the foundations of respect for law and liberty of action within the limits allowed by the law. My Honourable friend, the Leader of the Independent Party, this morning demanded that the Government should show a spirit of co-operation in response to the great gesture of co-operation made by this House yesterday. I might be excused a little mild surprise that the Honourable Member should take credit . . . . .

**Sir Abdur Rahim:** No, I did not.

**The Honourable Mr. H. G. Haig:** . . . . . to himself for a co-operation which he did everything in his power to oppose. (Laughter.) But, Sir, I do not wish to press too far the personal point. I am willing to believe that the Honourable Member, impressed by the verdict of this House, is now prepared to associate himself with their views. The real answer is this. With those who are pursuing a policy which is clearly at variance with the interests of the country, which is destructive of the foundations on which not only this Government, but any Government must rest,—with people who are pursuing such a policy we cannot

[Mr. H. G. Haig.]

co-operate. But is there no proof of co-operation, is there not co-operation and full co-operation going on in London at this moment at the Round Table Conference in the framing of a constitution, of the details of which my Honourable friend, Maulvi Sayyid Murtuza Saheb Bahadur, appears to be singularly ignorant? If the menace which is typified in the civil disobedience movement is once removed—and the passing of this Bill will contribute powerfully to remove it,—then we can go forward with confidence into the new era, the prospect of which is widening daily before us. Difficulties there may be, difficulties there will be, but the tide is coming in, and I would ask the House to remember the words of the English poet:

“For though the tired waves vainly breaking,  
Seem here no painful inch to gain,  
Far back, through creeks and inlets making,  
Comes silent, flooding in, the main.”

(Loud and prolonged Applause.)

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is:

“That the Bill to supplement the Criminal Law, as amended, be passed.”

1 P.M.

The Assembly divided:

**AYES—57.**

Abdul Hye, Khan Bahadur Abul  
Hasnat Muhammad.  
Acott, Mr. A. S. V.  
Ahmad Nawaz Khan, Major Nawab.  
Ahmed, Mr. K.  
Allah Baksh Khan Tiwana, Khan  
Bahadur Malik.  
Amir Hussain, Khan Bahadur Saiyid.  
Anklesaria, Mr. N. N.  
Anwar-ul-Azim, Mr. Muhammad.  
Bajpai, Mr. G. S.  
Bhore, The Honourable Sir Joseph.  
Bower, Mr. E. H. M.  
Burt, Mr. B. C.  
Dalal, Dr. R. D.  
DeSouza, Dr. F. X.  
Dunn, Mr. C. W.  
Dutt, Mr. G. S.  
Fazal Haq Piracha, Shaikh.  
Fox, Mr. H. B.  
Greenfield, Mr. H. C.  
Gwynne, Mr. C. W.  
Haig, The Honourable Mr. H. G.  
Hezlett, Mr. J.  
Hossack, Mr. W. B.  
Hudson, Sir Leslie.  
Ishwarsingji, Nawab Naharsingji.  
Ismail Ali Khan, Kunwar Hajee.  
James, Mr. F. E.  
Jawahar Singh, Sardar Bahadur  
Sardar.  
Lal Chand, Hon. Captain Rao  
Bahadur Chaudhri.

Mackenzie, Mr. R. T. H.  
Macqueen, Mr. P.  
Meek, Mr. D. B.  
Metcalf, Mr. H. A. F.  
Mitchell, Mr. D. G.  
Mitter, The Honourable Sir  
Brojendra.  
Moore, Mr. Arthur.  
Morgan, Mr. G.  
Mujumdar, Sardar G. N.  
Mukherjee, Rai Bahadur S. C.  
Nayudu, Rao Bahadur B. V. Sri Hari  
Rao.  
Nihal Singh, Sardar.  
Noyce, The Honourable Sir Frank.  
Rafiuddin Ahmad, Khan Bahadur  
Maulvi.  
Rajah, Rao Bahadur M. C.  
Rau, Mr. P. R.  
Ryan, Mr. T.  
Schuster, The Honourable Sir George.  
Scott, Mr. J. Ramsay.  
Sher Muhammad Khan Gakhar,  
Captain.  
Singh, Mr. Pradyumna Prashad.  
Sorley, Mr. H. T.  
Suhrawardy, Sir Abdulla-al-Mamūn.  
Tottenham, Mr. G. R. F.  
Wajihuddin, Khan Bahadur Haji.  
Yakub, Sir Muhammad.  
Yamin Khan, Mr. Muhammad.  
Zulfiqar Ali Khan, Sir.

## NOES—31.

Abdul Matin Chaudhury, Mr.  
 Abdur Rahim, Sir.  
 Azhar Ali, Mr. Muhammad.  
 Badi-uz-Zaman, Maulvi.  
 Bhuput Sing, Mr.  
 Chandi Mal Gola, Bhagat.  
 Chetty, Mr. R. K. Shanmukham.  
 Dutt, Mr. Amar Nath.  
 Gour, Sir Hari Singh.  
 Gunjal, Mr. N. R.  
 Isra, Chaudhri.  
 Jadhav, Mr. B. V.  
 Joe, Mr. S. G.  
 Lalchand Navalrai, Mr.  
 Misra, Mr. B. N.  
 Mitra, Mr. S. C.

Mody, Mr. H. P.  
 Murtuza Saheb Bahadur, Maulvi  
 Sayyid.  
 Parma Nand, Bhai.  
 Patil, Rao Bahadur B. L.  
 Ranga Iyer, Mr. C. S.  
 Reddi, Mr. T. N. Ramakrishna.  
 Sant Singh, Sardar.  
 Sarda, Diwan Bahadur Harbilas.  
 Sen, Mr. S. C.  
 Sen. Pandit Satyendra Nath.  
 Singh, Mr. Gava Prasad.  
 Sitaramaraju, Mr. B.  
 Sohan Singh, Sirdar.  
 Thampan, Mr. K. P.  
 Ziauddin Ahmad, Dr.

The motion was adopted.

The Assembly then adjourned for Lunch till Twenty Minutes Past Two of the Clock.

The Assembly re-assembled after Lunch at Twenty Minutes Past Two of the Clock. Mr. President (The Honourable Sir Ibrahim Rahimtoola) in the Chair.

### THE INDIAN TARIFF (OTTAWA TRADE AGREEMENT) AMENDMENT BILL.

**The Honourable Sir Joseph Bore** (Member for Commerce and Railways): Sir, I introduce the Bill further to amend the Indian Tariff Act, 1894, for certain purposes.

Sir, I move:

"That the Bill further to amend the Indian Tariff Act, 1894, for certain purposes, be referred to a Select Committee consisting of Mr. R. K. Shanmukham Chetty, Mr. C. S. Ranga Iyer, Sardar Sant Singh, Mr. K. P. Thampan, Mr. N. R. Gunjal, Mr. B. Sitaramaraju, Mr. S. C. Mitra, Shaikh Sadiq Hasan, Dr. Ziauddin Ahmad, Mr. H. P. Mody, Khan Bahadur Haji Wajihuddin, Mr. F. E. James, Mr. Rahimtoola M. Chinoy, Sir Abdulla Suhrawardy, Dr. F. X. DeSouza, Mr. G. Morgan, Sir Zulfiqar Ali Khan, the Honourable Sir George Schuster, the Honourable Sir Frank Noyce and the Mover, with instructions to report on or before the 12th December, 1932, and that the number of members, whose presence shall be necessary to constitute a meeting of the Committee, shall be five."

This Bill, Sir, seeks to implement the Trade Agreement arrived at with the United Kingdom. The principle underlying it has been discussed in great detail in this House for many days and there is little new that I can say at this state which will add much to the proceedings. I will, therefore, confine myself to a very short explanation of the Bill which I have placed before this House in pursuance of the Resolution which was passed yesterday. The Bill consists of four clauses and a Schedule. Clause 1, sub-clause (2), leaves the fixation of the date, from which the Bill, if passed, will come into force, to the Governor General in Council, because, Sir, the settlement of administrative details will take some time and it is impossible for us to say here and now what the exact date should be. Clause 2 hardly needs any detailed elucidation. It



[Sir Joseph Bhore.]

contains the requisite directions to customs authorities in regard to the application of the new rates of duty. When preference is given to the goods of any country, it is necessary to issue directions to the customs authorities, so that they can settle the question of the country of origin, and this section provides for the issue of rules in this behalf. Clause 4 exempts the rates shown in the Schedule from the operation of the Indian Finance Act of 1931: that is to say, the rates shown in the Schedule are net rates and these have been fixed after taking into account the existing rates and sur-charges.

I come next to the Schedule. In explaining the Schedule, it is necessary to say that the general plan is to include under two new parts, numbered as VIII and IX, the goods subject to preferential rates. The first forty-five items in the Schedule are merely consequential changes necessitated by the removal to Parts VIII and IX of the items hitherto included in the existing parts of Schedule II of the Act. As regards Part VIII, I should add that it contains all the articles which are at present dutiable under Part V at the general revenue duty,—normally 15 per cent. and at the present moment 25 per cent. I should say, further, that the existing general rate of duty is being modified partly by raising and partly by lowering. The net result is generally that the rates of duty under this part for British goods have been lowered from the existing 25 per cent. *ad valorem* rate to 20 per cent. and the rates for foreign goods have been raised by five per cent. to 30 per cent. That is the way in which we have provided for the ten per cent. preference under this class. I ought to say that, on the most careful examination that we have been able to make, Government are of opinion that this re-arrangement of rates will result in no material alteration of our revenue position. My Honourable colleague, the Finance Member, explained yesterday the factors that had been taken into account in arriving at this conclusion. We have been influenced mainly by two considerations, namely, the interests of the consumer and the interests of the exchequer. As regards Part IX, I should say that it contains all the articles on the preferential list which are dutiable at special rates, that is to say, at rates either higher than or lower than the general revenue rate, and, in regard to these, I have merely to say that we have in no case gone beyond 50 per cent. *ad valorem*. Where the trade figures and general considerations warrant this, in a few cases, we have given preference by entirely raising the duty. But, in the other cases, we have given it partly by raising and partly by lowering. Here also we have been generally guided by the interests of the consumer and of general revenues. I ought just to explain, Sir, that the form of the Schedule is somewhat different to the Notification which was published some days ago, and this has been due partly to drafting improvements, and partly to a few changes of substance: for instance, it has now been possible to enter definitely the rates in regard to tobacco which we now propose to levy.

There is another thing I ought to bring to the notice of the House. With reference to clauses 2 and 3 of the Supplementary Agreement relating to iron and steel, Government are satisfied that they possess the necessary powers to implement this part of the Agreement and that they will use those powers straightaway, should necessity arise. That, Sir, I think, explains the Bill which I have placed before this House, and I would like to make an appeal to the House to allow this Bill to go at the earliest

possible moment to a Select Committee. There is just one other matter to which I should like to refer, with reference to what fell from the Honourable the Leader of the Independent Party this morning. I would like to say that I personally would most warmly welcome any co-operation that he might extend to me in this matter. Sir, I move.

**Mr. C. S. Ranga Iyer** (Rohilkund and Kumaon Divisions: Non-Muhammadan Rural): Sir, it is unnecessary at this stage to make a very lengthy criticism for the obvious reason that this Bill is the direct result of yesterday's Resolution which was carried by this House. It is hardly necessary to stress the fact that every one who goes into this Committee goes with the purpose of constructive criticism and amendment and not the destructive purpose of wrecking the Bill or trying to maintain intact the existing tariffs. I have, of course, in certain matters to measure swords with the Government and put up an uncompromising fight, as, for instance, taking one item in the Schedule, namely, soap. We find that the standard rate of duty will be 30 per cent, the preferential rate of duty will be 20 per cent and the present rate is 25 per cent. They have lowered the rate of duty by five per cent in favour of England. In India, soap can be manufactured and is being manufactured on a vast scale. On a matter like this, I may definitely state, I do not propose to compromise to the extent even of five per cent, because I do not want the soap industry in this country to be killed or, for that matter, to be unfairly treated by lowering the wall of tariff in favour of Great Britain. While I will certainly be willing to give preference to British soap in consequence of our being within the Empire and thereby, I hope, of getting our constitutional relations improved, I will certainly insist that the existing tariff must be maintained and the tariff wall raised a little higher against non-British and non-Empire soap. I do not want to go into details. I only give this specific instance, for every student of Indian industrial possibilities and activities will be able to say that in the matter of soap we have a great capacity for production. We have every facility for production and we do not want to allow any soap from outside, whether British or foreign, to compete unfairly with our own soap. Therefore, I only ask my friends on this side of the House to leave it to their representatives to put up a fight where they think a fight is reasonable and to possess their souls in patience until this Bill emerges from the Select Committee. With these few words, I conclude my observations. I hope there will not be more speechifying on this matter so that we may straightaway go into the Select Committee and come early out of it.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That the Bill further to amend the Indian Tariff Act, 1894, for certain purposes, be referred to a Select Committee consisting of Mr. R. K. Shanmukham Chetty, Mr. C. S. Ranga Iyer, Sardar Sant Singh, Mr. K. P. Thampan, Mr. N. R. Gunjal, Mr. B. Sitaramaraju, Mr. S. C. Mitra, Shaikh Sadiq Hasan, Dr. Ziauddin Ahmad, Mr. H. P. Mody, Khan Bahadur Haji Wajihuddin, Mr. F. E. James, Mr. Rahimtoola M. Chinoy, Sir Abdulla Suhrawardy, Dr. F. X. DeSouza, Mr. G. Morgan, Sir Zulfiqar Ali Khan, the Honourable Sir George Schuster, the Honourable Sir Frank Noyce and the Mover, with instructions to report on or before the 12th December, 1932, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee, shall be five."

The motion was adopted.

## STATEMENT OF BUSINESS.

**The Honourable Sir Brojendra Mitter** (Leader of the House): Sir, with your permission, I desire to make a statement as to the probable course of Government business next week. It is our intention, Sir, after the report of the Select Committee is presented, to request you to suspend the Standing Orders and take the report into consideration after two days instead of the usual week.

**Mr. R. K. Shanmukham Chetty** (Salem and Coimbatore *cum* North Arcot: Non-Muhammadian Rural): The Bill ought to be taken into consideration by the 14th December.

**The Honourable Sir Brojendra Mitter**: The request I make is this: if the report be presented on Monday, the 12th, that it be taken into consideration on the 14th instead of on the 19th, which would be the usual time under the Standing Orders.

**Mr. Amar Nath Dutt** (Burdwan Division: Non-Muhammadian Rural): May I know, Sir, who cancels the Standing Orders?

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member proposes to request the Chair to suspend the Standing Orders. It is in the absolute discretion of the Chair to do so or not to do so.

**The Honourable Sir Brojendra Mitter**: Then the Government will proceed with the other legislative business which I announced last week. This consists of:

- (1) The motion to take into consideration the Bill to supplement the Bengal Terrorist Outrages Act.
- (2) The motion to take into consideration the Bill to amend the Merchant Shipping Act in connection with the Haj Pilgrimage, as reported by the Select Committee.
- (3) The motion to take into consideration the Bill to prevent the pledging of Child Labour, as reported by the Select Committee.
- (4) The motion to take into consideration the Murshidabad Bill; and
- (5) The introduction of two Bills, namely, a Bill to amend the Merchant Shipping Act for certain purposes, and a Bill to amend the Auxiliary Forces Act for certain purposes. It is not proposed to proceed further with these two Bills in this Session.

The Assembly then adjourned till Eleven of the Clock on Monday, the 12th December. 1932.





# LEGISLATIVE ASSEMBLY.

Monday, 12th December, 1932.

The Assembly met in the Assembly Chamber of the Council House at Eleven of the Clock, Mr. President (The Honourable Sir Ibrahim Rahimtoola) in the Chair.

## QUESTIONS AND ANSWERS.

### POSITION OF LIFE ASSURANCE COMPANIES IN REGARD TO RATE OF TAX APPLICABLE TO INTEREST ON SECURITIES.

1612. \***Sir Leslie Hudson** (on behalf of Mr. H. P. Mody): Will Government be pleased to state:

- (a) whether Notification No. 42, dated 10th September, 1932, Finance Department, Central Revenues, regarding the rate of tax applicable to interest on securities, is applicable to Life Assurance Companies;
- (b) whether the procedure followed in this regard in different Provinces is the same;
- (c) whether the Central Board of Revenue have received any representation in this regard from Life Assurance Companies in Bombay; and
- (d) if so, how they propose to deal with the matter?

**The Honourable Sir George Schuster:** (a) No. The Notification relates to the rate of tax applicable to interest paid on securities in an assessee's "previous year", whereas Insurance Companies are not assessed on the income of the "previous year", but on the results of a periodical actuarial valuation.

(b) I have no reason to suppose otherwise, but the Central Board of Revenue are making enquiries, and will take steps, if necessary, to secure uniformity.

(c) No, but one Company approached the Commissioner of Income-tax, Bombay.

(d) The Board accepted the opinion of the Commissioner that the Notification was not applicable.

### UNDERSTAFFED CLERICAL AND COMPUTING BRANCHES OF THE GOVERNMENT OF INDIA PRESS, NEW DELHI.

1613. \***Mr. S. C. Mitra:** (a) Are Government aware that the Clerical and Computing Branches of the Government of India Press, New Delhi, are greatly understaffed, work is in arrears, and men are forced by the Manager to take work home, stay after office hours and work on Sundays and gazetted holidays?

(b) Will Government be pleased to state the number of occasions on which the staff of the Computing Branch was booked to attend on Sundays and holidays in the year 1932?

(c) Is it a fact that proposals for increasing the staff of the New Delhi Press have been under consideration for the last four years, but that no additional staff has been sanctioned?

**The Honourable Sir Frank Noyce:** (a) I am informed that temporary clerks have been engaged to prevent arrears and that no clerk is asked to stay after office hours or to take work home. Clerks booked to attend on a Sunday or a holiday, are granted compensation leave which is always taken.

(b) Nine (3 Sundays and 6 holidays).

(c) Proposals for increasing the staff have been held in abeyance owing to the pressing need for keeping down expenditure.

**CLERKS IN THE GOVERNMENT OF INDIA PRESS, NEW DELHI, SHOWN ON THE FLUCTUATING STAFF.**

.. 1614. **\*Mr. S. C. Mitra:** (a) Is it a fact that there are certain clerks employed in the Government of India Press, New Delhi, who are shown on the fluctuating staff for the last three to four years and are not given any increment since the date of their employment?

(b) Is it a fact that they were originally taken for a few months to tide over the work in the busy season, but were subsequently retained owing to the increase of work of a permanent nature?

(c) If the replies to parts (a) and (b) are in the affirmative, will Government be pleased to state why the fluctuating staff are not brought on to the regular establishment when the work which they are doing is of a permanent nature? Do Government now propose to take steps to make the prospects of their service better by giving them regular increments and admitting them to the benefits of the contributory provident fund?

(d) Is it a fact that during all these years of their appointment there did occur a few vacancies on the regular establishment of the Reading Branch of the said Press, which were filled by outsiders of lesser qualifications? If so, why were the claims of men already in service overlooked?

(e) Is it a fact that whenever any officiating vacancy occurs in the Reading Branch of the Delhi Press, a warehouseman getting Rs. 20 per month is given the officiating chance and no man from the so-called fluctuating staff is allowed to officiate as such, though there are men possessing better qualifications? If so, why?

**The Honourable Sir Frank Noyce:** (a) and (b). Yes.

(c) (i) The fluctuating staff who are doing work of a permanent nature cannot be transferred to the regular establishment as the proposals for additions to the regular establishment have been held in abeyance on account of the present financial position. Four clerks originally employed on the fluctuating establishment have, however, been brought on to the regular establishment as vacancies occurred.

(ii) No.

(d) Certain vacancies on the industrial establishment, which includes the staff of the Reading Branch were filled by qualified outsiders because none of the fluctuating clerical staff applied for the posts. Clerks are ordinarily unwilling to work in the industrial branches where the conditions of service are different.

(e) Warehousemen have been given such opportunities. As already stated, clerks are ordinarily unwilling to work in the industrial branches. But if in future they apply for transfer to the industrial branches, their applications will be considered.

**Dr. Ziauddin Ahmad:** In case the fluctuating staff is required all the year round, will it not be better to make them permanent, so that better efficiency may be obtained?

**The Honourable Sir Frank Noyce:** I agree with the Honourable Member, but I would point out that I have already stated that proposals for additions to the regular establishment have had to be held in abeyance on account of the present financial position.

#### HEALTH OF MR. SUBHAS CHANDRA BOSE.

1615. \***Mr. S. C. Mitra:** (a) Will Government please inform the House the present state of health of State Prisoner Mr. Subhas Chandra Bose?

(b) Is it a fact that there was a difference of opinion amongst his medical advisers as to the cause of his intestinal troubles? Has it been referred to a Medical Board for correct diagnosis? If so, what is the opinion of the Medical Board? Is it unanimous?

(c) Is it a fact that there is no arrangement at Bhowali Sanatorium for treatment of intestinal troubles whether due to tubercular affection or otherwise? If not, why has Mr. Bose not been transferred to any other suitable place where proper arrangement may be made for the treatment of his intestinal troubles?

(d) Is it a fact that the Medical Board in Madras suggested that in case of necessity Mr. Bose should be transferred to a place out of India—preferably Switzerland—where most up-to-date treatment for this particular disease, may be availed of?

(e) Are not Government aware that an adjournment motion in the Bengal Council has been carried without division for not taking adequate and timely steps for the health of Messrs. Bose and Sen-Gupta?

**The Honourable Mr. H. G. Haig:** (a), (b), (c) and (d). I would refer the Honourable Member to the reply I gave to Pandit S. N. Sen's starred question No. 1524 on the 5th December, to which I have nothing to add at present. I hope to be able to give further information to the House when Government have considered the report of the Medical Board which has just been received.

(e) I have seen a Press report of the debate. The Government have taken, and are taking, special pains to provide suitable treatment for Mr. Bose.

**Mr. S. C. Mitra:** Is it a fact that the sanatorium will be closed on the 15th of December? If that is so, do Government propose to send Mr. Bose elsewhere for treatment in the meantime?



**The Honourable Mr. H. G. Haig:** Yes, Sir; it is intended to send Mr. Bose to Lucknow for further examination and treatment. The Board, which has just examined him, concluded that in any case the Bhowali treatment has not done him any good.

**Mr. S. C. Mitra:** Is it a fact that for intestinal tuberculosis there is no proper treatment in India and that the best place is either Denmark or Vienna, and, if that be so, do Government propose to send him out of India for treatment?

**The Honourable Mr. H. G. Haig:** When Mr. Bose has been further examined in Lucknow, the whole question will be further considered.

#### HEALTH OF MR. J. M. SEN-GUPTA.

1616. **\*Mr. S. C. Mitra:** (a) What is the present state of health of Mr. J. M. Sen-Gupta? Why has he been transferred from Jalpaiguri Jail to Alipur Central Jail? Is it due to his bad health? If so, what steps have been taken for his treatment since his transfer to Alipur?

(b) Is it the intention of Government to release him or to transfer him to a sanatorium in view of his continued ill-health in jail?

**The Honourable Mr. H. G. Haig:** (a) I would refer the Honourable Member to the reply I gave to Pandit S. N. Sen's starred question No. 1524 on the 5th December, 1932.

(b) No.

#### HEALTH OF MR. SARAT CHANDRA BOSE.

1617. **\*Mr. S. C. Mitra:** (a) What is the present state of health of Mr. Sarat Chandra Bose? Is he still in the Jubbulpore Jail? Who are the other State Prisoners now in the Jubbulpore Jail since the transfer of Mr. Subhas Chandra Bose? What association does Mr. Sarat Bose get in that Jail?

(b) Is it a fact that he has not recovered from diabetes from which he has been suffering? Do Government intend to remove him to a healthy place?

**The Honourable Mr. H. G. Haig:** (a) The medical reports show that he is keeping fairly good health. He is still detained in the Jubbulpore Jail. There has been no other State prisoner in that jail since his brother was transferred for medical treatment. The question of arranging suitable association for him is under consideration.

(b) I understand he still suffers from diabetes. Government have received a representation from him as regards the place of his detention, and this is under consideration.

#### MANUFACTURE OF SALT ON THE ORISSA COAST.

1618. **\*Sardar G. N. Mujumdar** (on behalf of Mr. B. N. Misra): (a) Are Government aware that in 1822 the revenue from salt duty in Orissa coast was Rs. 18 lakhs as stated in Toynebie's History?

(b) If the answer to part (a) be in the affirmative, will Government please state when and how salt manufacture on the Orissa coast was stopped?

**The Honourable Sir George Schuster:** (a) It is stated on page 70 of Toynbee's Sketch of the History of Orissa from 1803 to 1828, on the authority of Mr. Sterling that at some unspecified period the salt monopoly in Orissa yielded a net revenue of little less than 18 lakhs of sicca rupees, I presume annually. 15 sicca rupees were equivalent to 16 Company's rupees.

(b) Manufacture by the "Panga"† method ceased in 1889. This was due to a variety of causes. The extinction of jungles from which firewood had been obtained, the heavy fees demanded by zamindars for the excavation of salt earth and for the extraction of fuel from their forests and the gradual dying out of the prejudice against the use of imported salt.

Manufacture by the Karkatch‡ method ceased in 1897-98. This method, though cheaper, was handicapped by the weakness of the brine, and the unsettled weather that is apt to prevail on that part of the coast during the manufacturing season. It succumbed on the opening of the East Coast Railway to the competition of Madras and foreign salts.

**MANUFACTURE OF SALT AT HUMMA, SORDO AND NAUPADA IN THE GANJAM DISTRICT.**

1619. \***Sardar G. N. Mujumdar** (on behalf of Mr. B. N. Misra): (a) What quantity of salt is being manufactured at (i) Humma, (ii) Sordo, (iii) Naupada (in the Ganjam District) annually during the last ten years, respectively?

(b) If the information in reply to the above question is not available, will Government please enquire and place the reply on the table of this House?

**The Honourable Sir George Schuster:** (a) and (b). I am obtaining the information asked for and will lay it on the table in due course.

**MANUFACTURE OF SALT AT PARIKUD, MEALUD AND OTHER PLACES ON THE ORISSA COAST.**

1620. \***Sardar G. N. Mujumdar** (on behalf of Mr. B. N. Misra): (a) Will Government please state if they have taken any action to encourage salt manufacture in (i) Parikud, (ii) Mealud and (iii) other places on the Orissa coast?

(b) What is the distance between Hamma and Parikud?

**The Honourable Sir George Schuster:** (a) Not directly. The development of local industries is a matter for the Local Government.

(b) The distance is 25 miles over Ganjam Road or train to Balugaon and 12 miles over Chilka Lake,

**RULES FOR DETERMINING SENIORITY IN THE OFFICE OF THE CONTROLLER OF RAILWAY ACCOUNTS.**

1621. \***Sardar G. N. Mujumdar** (on behalf of Mr. B. N. Misra): (a) Is it a fact that the rules for determining the relative seniority of non-gazetted staff of the Controller of Railway Accounts' Office lay down that the seniority shall be fixed with reference to substantive pay?

† Evaporation by artificial heat of salt earth dissolved in water.

‡ Evaporation of sea brine by solar heat.

(b) If so, will Government please state what objections there are to fixing the seniority of clerks in lower class according to the length of their continuous service? Is it a fact that the Auditor General in India, at the time of introducing the time scale of pay in 1922, had held that pay was not the criterion for purposes of seniority and that this rule still holds good in the Posts and Telegraphs and Civil Accounts Offices and the Office of the Director of Railway Audit and is generally applicable to the staff of the Railway Board also?

(c) Is it a fact that while determining the relative seniority of the staff transferred from the office of the Secretary, Indian Railway Conference Association, due consideration was paid not only to their previous service but also to the initial starting pay which was higher than the minimum pay of the grade?

(d) If the reply to part (c) above be in the affirmative, will Government please state why the continuous service of clerks taken over from the late Accountant General Railways' Office and other departments is not considered a deciding factor for fixing the seniority?

(e) Is it a fact that, to complete the strength of the office of the Controller of Railway Accounts, clerks were permanently taken over not only from the late Accountant General Railways' Office but also, time after time, from the Railway Board, Indian Railway Conference Association, old Chief Auditors' Offices, other departments and officers on special duty?

(f) If the reply to part (e) above be in the affirmative, will Government please state whether their grades of pay were different? Is it a fact that the staff attached to officers on special duty were given higher pay than they would have drawn in the ordinary course, and which they were allowed to draw even after transfer to the office of the Controller of Railway Accounts?

**Mr. P. R. Rau:** (a) and (b). I would refer the Honourable Member to the rules for determining the relative seniority of non-gazetted staff in State Railway Accounts Offices, a copy of which is in the Library of the House. These apply to the non-gazetted staff of the office of the Controller of Railway Accounts as well. They were framed last year after full consideration and Government see no reason to alter them.

(c) and (d). I am informed that the seniority of the clerks in the office of the Controller of Railway Accounts was fixed strictly in accordance with these rules after taking into account all relevant factors, such as, pay, length and character of service. It may, however, be mentioned that promotion depends upon merit and suitability and not primarily on the position in the seniority list.

(e) It is a fact that the office of the Controller of Railway Accounts, when it was constituted in 1929 was recruited from various sources.

(f) The answer to both parts of the question is in the affirmative. The pay of staff transferred to this office was paid in each case after taking all circumstances into consideration, including the pay they were in receipt of before such transfer.

#### ORISSA COMMITTEE REPORT.

1622. \***Mr. B. N. Misra:** (a) Will Government be pleased to state whether they have despatched their views on the Orissa Committee Report?

(b) If the reply to the above question be in the negative, will Government be pleased to state when they are going to send their final views on the Orissa Committee's Report to the Secretary of State for India?

(c) Do Government think that the matter will not come up before the Third Round Table Conference?

(d) If the reply to part (a) be in the affirmative, will Government be pleased to inform the house what were the views expressed by them in their despatch?

**The Honourable Sir Brojendra Mitter:** Sir, with your permission, I shall reply to questions Nos. 1622, 1623 and 1624 together.

The Government of India have obtained from the Local Governments concerned their views on the Orissa Committee's report and have addressed the Secretary of State in the matter. The whole question is under consideration and I am not in a position to state the views either of Local Governments or of the Government of India at this stage.

2. As regards the discussion of the question at the Round Table Conference and the representation of Orissa thereon, I would invite the Honourable Member's attention to the reply given by my Honourable colleague, the Home Member, to Mr. Bhuput Sing's short notice question on the 22nd November last.

#### ORISSA COMMITTEE REPORT.

†1623. **\*Mr. B. N. Misra:** (a) Will Government be pleased to state the dates on which they requisitioned and received the opinions on the Orissa Committee Report from the Local Governments of (i) Bihar and Orissa and (ii) Madras?

(b) Will Government be pleased to state the opinion of the Bihar and Orissa Government with regard to the separation of Orissa?

(c) Will Government be pleased to state the opinion of the Madras Government with regard to the separation of Orissa?

#### PLACING OF THE ORISSA SEPARATION CASE BEFORE THE THIRD ROUND TABLE CONFERENCE.

†1624. **\*Mr. B. N. Misra:** (a) Will Government be pleased to state the reasons why they have not sent an Orissa delegate to the Third Round Table Conference?

(b) Will Government be pleased to state whether they have arranged to put the Orissa separation case before the Third Round Table Conference and in what manner?

(c) If not, do they propose to place it before the Joint Parliamentary Committee?

#### COST INCURRED BY GOVERNMENT ON THE HAULAGE, TRAVELLING AND OTHER ALLOWANCES FOR THE NOMINATED MEMBERS OF THE LEGISLATIVE ASSEMBLY.

1625. **\*Pandit Satyendra Nath Sen** (on behalf of Pandit Ram Krishna Jha): Will Government be pleased to state the amount of cost incurred by

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† For answer to this question, see answer to question No. 1622.

Government for payment of haulage, travelling and other allowances for the Nominated Members of each Assembly since 1921?

**The Honourable Sir Brojendra Mitter:** The information asked for is being collected and will be laid on the table of the House in due course.

**POSTS CARRYING SPECIAL PAY IN THE IMPERIAL SECRETARIAT PROPER HELD BY MUSLIMS.**

1626. **\*Dr. Ziauddin Ahmad** (on behalf of Mr. M. Maswood Ahmad): Is it a fact that in answer to unstarred question No. 155 (c) answered on the 30th September, 1932, it was stated that 13·7 per cent. of posts carrying special pay in the Imperial Secretariat proper are held by Muslims? Will Government kindly state the number of Muslims drawing special pay departmentwise, together with their names and the work for which this special pay has been granted to them, excluding the Reforms Office which is on a temporary basis, as also excluding Attached Offices?

**The Honourable Mr. H. G. Haig:** The percentage was for the Departments of the Government of India and their Attached Offices combined. In regard to the rest of the question I would refer the Honourable Member to the statement laid on the table on the 14th September, 1932, in reply to question No. 1107. That statement gives all the information the Honourable Member requires, except that relating to names of Muslims holding posts carrying special pay. I regret I am unable to undertake to collect this information.

**APPOINTMENT OF A MUSLIM TO SCRUTINISE THE COMMUNAL COMPOSITION STATEMENTS OF VARIOUS DEPARTMENTS.**

1627. **\*Dr. Ziauddin Ahmad** (on behalf of Mr. M. Maswood Ahmad): Is it a fact that Government in the Home Department issue, from time to time, instructions to other Departments to remove communal inequalities? Will Government kindly say whether the Home Department who issue these instructions or any other Department is made responsible to see that such instructions were acted upon and not abused by other Departments? Is it a fact that in each Session of the Legislature there are questions pointing out communal inequalities in different Departments? Are Government prepared to take any action in the matter; or are they prepared to appoint a Muslim to scrutinise the various communal composition statements received from various Departments and suggest means of improving the position of Muslims?

**The Honourable Mr. H. G. Haig:** General instructions were issued by the Home Department in 1926. Each Department or office is individually responsible for their observance in respect of its own establishment; but the Home Department have also prescribed an annual return with the object of watching the effect of the general instructions. As explained in reply to starred question No. 335 on 16th September, 1931, Government have already undertaken an enquiry into the matter and hope to reach decisions on its results at an early date.

**PERCENTAGE OF MUSLIMS IN THE IMPERIAL SECRETARIAT SERVICE OF THE DEPARTMENT OF EDUCATION, HEALTH AND LANDS.**

1628. **\*Dr. Ziauddin Ahmad** (on behalf of Mr. M. Maswood Ahmad): (a) Is it a fact that in May, 1924, the number of Muslims in the Imperial

Secretariat Service (Central Service, Class II) of the Department of Education, Health and Lands was as under?

Total number of Assistants and Superintendents	38
Number of Muslims	9
Percentage of Muslims to the total number	23·7

(b) Is it a fact that in November, 1932, the number of Muslims in the same service of the same Department was as follows?

Total number of Assistants and Superintendents	37
Number of Muslims	7
Percentage of Muslims to the total number	18·91

(c) Is it a fact that the number and percentage of Hindus and Sikhs in the same Service in the same Department was 14 or 36·86 in 1924 and 24 or 65 per cent. in November, 1932?

**Mr. G. S. Bajpai:** (a) to (c). On the 1st May, 1924, there were only eight Muslims out of 37 Superintendents and Assistants actually serving in the Department of Education, Health and Lands. All these eight Muslims were in the grade of Assistants, and one of them was employed as Librarian. In November, 1932, there were six Muslim Assistants and one Muslim Superintendent in the Department. The decrease of one Muslim Assistant was due to the transfer of the Muslim Librarian to Calcutta on a salary of Rs. 750—50—1,250 as compared with the salary Rs. 200—15—500 which was the scale attached to his post in the Department of Education, Health and Lands. The percentage in 1924 was 21·62 and in November, 1932, 18·91.

The correct percentage of the various communities in these grades on the dates mentioned by the Honourable Member is shown in the statement which I lay on the table.

Statement.

Year.	Total number of posts in the grades of Superintendents and Assistants in Education, Health and Lands Department.	Hindus.		Minority Communities.										Remarks.
				Muslims.		Sikhs.		Europeans, Anglo-Indians, etc.		Other Communities.		Total percentage of Minority Communities.		
		No.	Percentage.	No.	Percentage.	No.	Percentage.	No.	Percentage.					
										No.	Percentage.		No.	
1924	37*	12	32·43	8	21·62	2	5·41	15	40·54	..	..	67·57		
1932	37	21	56·76	7	18·91	3	8·11	6	16·22	..	..	43·24		

\* Excludes one Muslim Assistant who was on deputation.

**Mr. Amar Nath Dutt:** Is it not a fact that the Department has been in charge of a Moslem Member for more than 8 or 10 years?

**Mr. G. S. Bajpai:** The Honourable Member has been long enough a Member of this House to know how long we have had a Moslem Member in charge of this Department.

**Sir Abdulla-al-Māmūn Suhrawardy:** And how long it has had a non-Moslem Secretary?

#### PAUCITY OF MUSLIMS IN THE DEPARTMENT OF EDUCATION, HEALTH AND LANDS.

1629. **\*Dr. Ziauddin Ahmad** (on behalf of Mr. M. Maswood Ahmad): (a) Is it a fact that after April, 1924, there had been 16 vacancies of Assistants in the Department of Education, Health and Lands for which 15 Hindus and only one Muslim were recruited, and that the Muslim being a passed hand was promoted from the Lower Division to the Upper Division in the Department and was therefore not a new entrant? Is it a fact that of the 15 Hindus, five have not, in the ordinary course, qualified for the Upper Division, and that three of these appeared two or three times in the qualifying examination but failed to get through, and that, in spite of their repeated failure, they have been exempted and promoted to the Upper Division?

(b) Is it a fact that there have been questions in the Legislature in previous years against this department regarding paucity of Muslims in the Department? Is it also a fact that the Anjuman-i-Islamia, Simla, represented to the Department in a previous year, pointing out the grievances of the Muslim employees, but the number of the Muslims and Christians including Anglo-Indians has considerably fallen while the number of Hindus and Sikhs has been considerably increased?

(c) Is it a fact that in July, 1931, this Department, in view of the very meagre representation of Muslims in the Central Service, Class II, asked the Public Service Commission to nominate a Muslim passed hand for a then Upper Division vacancy to which a Muslim was appointed?

(d) Is it a fact that this Assistant left the Department in October, 1932? Is it a fact that this Department did not ask the Public Service Commission to nominate a candidate and preferred to promote Lala Huma Nand, an unpassed hand, who could not qualify for the Upper Division although he appeared two or three times?

**Mr. G. S. Bajpai:** (a) Actually there have been 18 vacancies in the Assistant's grade of the Education, Health and Lands Department since 1924. Of these, 14 have been filled in accordance with existing orders by departmental promotion which, as Honourable Member is probably aware, is not regulated by communal considerations. It is not understood what Honourable Member means by saying that five of these men were not qualified in the ordinary course. One of them had secured a high place in the Indian Civil Service examination held in India and had been declared by the Public Service Commission to be duly qualified for appointment as Assistant. One was recruited on the recommendation of the Public Service Commission for the technical post of Librarian. The remaining three were promoted on the strength of service of proved merit in the Department. Only three were recruited direct and, of these one was a Muslim.

(b) There have been questions asked in the Legislature regarding the employment of Muslims in the Education, Health and Lands Department and a representation was also received from the Anjuman-i-Islamia, Simla. The suggestion that there is a paucity of Muslims in this Department is not correct: Muslims constitute 26.14 per cent. of the total clerical staff of this Department as against 26.97 per cent. in 1924. The decrease has been in the number of members of the Anglo-Indian and Domiciled European community owing to the retirement, on retrenchment terms, of four members of this Community. Honourable Member might be interested to know that not one single Muslim has been retrenched.

(c) and (d). Mirza Mahmood Beg, M.A., was recruited for the 1st Division in 1931 because this Department asked that of the three vacancies offered for direct recruitment in that year, one should be reserved for a Muslim. He left this Department in October, 1932, as he preferred teaching to clerical work. This vacancy was filled by the promotion of a clerk from the 2nd Division whose departmental work fully justified such promotion. A Muslim clerk would have been promoted to fill this vacancy, had he not declined because promotion would not have benefited him financially.

#### PAUCITY OF MUSLIMS IN THE DEPARTMENT OF EDUCATION, HEALTH AND LANDS.

1630. \*Dr. Ziauddin Ahmad (on behalf of Mr. M. Maswood Ahmad):

(a) Will Government kindly give reasons why their instructions regarding 30 per cent. representation of Muslims have been ignored in the Department of Education, Health and Lands?

(b) Are Government aware that the percentage of Muslims has been systematically and gradually reduced from 23.7 in 1924 to 18.9 in 1932?

(c) Are Government aware that non-Muslims who failed to qualify for the Upper Division test were promoted to that Division, and that no Muslim was similarly promoted?

(d) When Mirza Mahmood Beg left the Department in October, 1932, why was the Public Service Commission not, as before, asked to nominate a Muslim candidate in place of a Muslim, or a deserving Muslim promoted from the Lower Division to the Upper Division in the Department to adjust the communal inequality existing in the Department?

**Mr. G. S. Bajpai:** (a) Government are not aware of any instructions regarding 30 per cent. representation of Muslims.

(b) No. In 1924, the percentage of Muslims was 26.97. Now it is 26.14.

(c) As explained in reply to the Honourable Member's previous question on the same subject, departmental promotions are not made on communal grounds. There has been no irregular appointment of non-Muslims at the expense of Muslims. As I have explained in reply to parts (c) and (d) of his question No. 1629, promotion was offered to a Muslim, but was declined for financial reasons.

(d) The Public Service Commission were not consulted, because it was decided to fill the vacancy by departmental promotion. As regards the Honourable Member's question why a Muslim was not promoted, I would invite his attention to the answer which I have just given to part (c) of this question.



**Dr. Ziauddin Ahmad:** May I ask a supplementary question as to part (b) of the question, whether, in calculating the figures, *chaprassis* also are included or excluded?

**Mr. G. S. Bajpai:** The Honourable Member's question relates to First Division Assistants and Superintendents. Therefore it would be clear that *chaprassis*, who do not rank either with Superintendents or with First Division Assistants, are not included.

**NON-ALLOTMENT OF A RENT-FREE QUARTER TO A MUSLIM CLERK IN THE OFFICE OF THE SUPERINTENDENT OF EDUCATION, DELHI.**

1631. **\*Dr. Ziauddin Ahmad** (on behalf of Mr. M. Maswood Ahmad): (a) Is it a fact that in 1921, when the Delhi and Ajmer-Merwara Education offices were combined under one Superintendent, it was found necessary to transfer one of the Ajmer-Merwara Education Department clerks to Delhi, to do the Ajmer-Merwara work in Delhi? Is it a fact that the first of these was Mr. Bhanwar Lal Dosi, who was afterwards succeeded by Mr. Kesri Mal Taparia? Is it a fact that the same practice is still being continued and only last year a clerk from Ajmer was transferred to do the Ajmer-Merwara work in Delhi?

(b) Is it a fact that as an inducement for this change of headquarters, a rent-free quarter close to the office was allotted in Delhi to the clerk and therefore the first two clerks occupied the rent-free quarters?

(c) Is it a fact that the present Ajmer-Merwara clerk, who is a Muslim, has not been given this quarter, but instead this rent-free quarter has been given to Superintendent of Education's stenographer who is drawing a three-figure salary—the highest in the office?

(d) Will Government kindly state the reasons for this departure?

**Mr. G. S. Bajpai:** (a) Both the clerks, Messrs. Bhanwar Lal Dosi and Kesri Mal Taparia of the office of the Superintendent of Education, Ajmer-Merwara, were originally transferred to Delhi. This plan had to be given up as it did not work satisfactorily and the two clerks were sent back to Ajmer in 1925. Since then one clerk from the Ajmer-Merwara Education Department has been stationed at Delhi.

(b) A rent-free quarter close to the office was allotted to the two clerks mentioned in the reply to part (a) and they occupied it jointly. The quarter was allotted to them as they were natives of Ajmer-Merwara and had suffered owing to their transfer to Delhi.

(c) The present Ajmer-Merwara clerk was transferred to Delhi on 13th July, 1931. At the time of his transfer, the quarter in question had been occupied by a clerk of the Delhi office for more than seven years. The Superintendent's stenographer was allotted this quarter only in July, 1932.

(d) Does not arise.

**EDUCATIONAL ADMINISTRATION OF THE DELHI PROVINCE.**

1632. **\*Dr. Ziauddin Ahmad** (on behalf of Mr. M. Maswood Ahmad): Has the attention of Government been drawn to a series of articles in the *Alaman* and *General News*, both of Delhi, as also in the *Muslim Outlook*, of Lahore, criticising the educational administration of the Delhi Province

under its new Superintendent? If so, will Government kindly state what action, if any, has been taken?

**Mr. G. S. Bajpai:** Government have seen an anonymous letter, which was published in certain newspapers, if this is what the Honourable Member has in mind.

**Dr. Ziauddin Ahmad:** What about the latter part of the question: "If so, will Government kindly state what action, if any, has been taken?"

**Mr. G. S. Bajpai:** It is not the policy of the Government to take action on anonymous letters.

**SPECIAL PAY GIVEN TO THE STENOGRAPHER OF THE SUPERINTENDENT OF EDUCATION, DELHI.**

1633. **\*Dr. Ziauddin Ahmad** (on behalf of Mr. M. Maswood Ahmad): (a) Is it a fact that in April, 1931, when a separate Superintendent of Education was appointed for Delhi, Ajmer-Merwara and Central India, the pay of his stenographer was fixed with reference to this combined charge of three Administrations and he was given the same grade of pay as the Head Clerk of that Office was drawing and the pay of the Head Clerk was fixed before 1921 when there was no combined charge, Delhi being the only charge? Is it a fact that subsequently, having regard to the combined charge of Delhi and Ajmer-Merwara, the Head Clerk of the Superintendent of Education's office was given a special pay from the Ajmer-Merwara budget on the ground that the pay originally fixed for the Head Clerk was for the Delhi Province work only?

(b) Is it a fact that a special pay of Rs. 25 p. m. has been sanctioned for supervising the clerical work of the Central India Education Department in Delhi? Is it a fact that this special pay is given to the stenographer? If so, why? Is it a fact that the stenographer is always on tour with the Superintendent of Education and this work is therefore done by the Head Clerk, whose pay was fixed for the Delhi Administration work only and who is getting a special pay of Rs. 25 *per mensem* for doing the similar work for Ajmer-Merwara? Will Government kindly state if in these days of financial stringency they have considered the question of doing away with the special pay of Rs. 25?

(c) Is it a fact that a Muslim graduate of the Delhi University, who was working as Programme Clerk in the Superintendent of Education's office and was well up in shorthand, and possessed a certificate of having acquired proficiency in shorthand from the Principal of the Government Commercial Classes, Delhi worked as stenographer to the Superintendent for over six months, but was reverted to his original post on Rs. 60—4—100 and a Hindu stenographer was brought in in the grade of Rs. 100—10—150? If so, why?

**Mr. G. S. Bajpai:** (a) Yes.

(b) A special pay of Rs. 25 per mensem was granted to a clerk in the office of the Honourable the Agent to the Governor General in Central India for the work of the Central India Education Department. As the Superintendent of Education has been appointed recently as Secretary to the Honourable the Agent to the Governor General in the Education

Department, all the work of that Department has been transferred to him and the special pay of Rs. 25 per mensem has been given to the Superintendent's stenographer, who supervises the entire clerical work of the Central India Branch. The question of entrusting the supervision of the clerks dealing with the Central India section to the Head Clerk of the Superintendent's office is being considered.

(c) The temporary Muslim clerk in the Superintendent's office who was given a trial as stenographer proved unsatisfactory. The Head Clerk of the Board of Secondary Education, who was appointed to the post, is, in addition to being an honours graduate, a fully qualified stenographer and has justified his selection. He has not gained much pecuniarily by the appointment as he was already in the grade of Rs. 90—10—140. The appointment was made purely on grounds of efficiency.

**APPOINTMENT OF THE STENOGRAPHER OF THE SUPERINTENDENT OF EDUCATION, DELHI, AS AN EXAMINER OF THE BOARD OF SECONDARY EDUCATION, DELHI.**

1634. **\*Dr. Ziauddin Ahmad** (on behalf of Mr. M. Maswood Ahmad): Is it a fact that the stenographer of the Superintendent of Education, Delhi has been appointed an Examiner of the Board of Secondary Education, Delhi, of which the Superintendent of Education is Chairman, in two or three subjects? Will Government kindly state if there is any other clerk in the Delhi Education Office or Board's office who was appointed previously or has now been appointed as examiner? If there is no precedent, will Government kindly state the reasons for this preferential treatment?

**Mr. G. S. Bajpai:** Yes. The stenographer of the Superintendent of Education, Delhi, was selected as an Examiner under the Board of Secondary Education, not by the Superintendent, but by the Board before he was appointed stenographer. So far as Government are aware there is no objection to other clerks in the Superintendent's office or in any other office being selected as Examiners if they are considered qualified by the Board.

**PERCENTAGE OF MUSLIM TEACHERS IN THE EDUCATION DEPARTMENT, DELHI AND IN VERNACULAR SCHOOLS, IN AJMER.**

1635. **\*Dr. Ziauddin Ahmad** (on behalf of Mr. M. Maswood Ahmad): Will Government kindly state the percentage of Muslim teachers in the Education Department in Delhi? Will Government also state the percentage of Muslim teachers in vernacular schools in Ajmer?

**Mr. G. S. Bajpai:** The percentage of Muslim teachers in Delhi is 37.8 and in vernacular schools in Ajmer-Merwara it is 15.9.

**QUINQUENNIAL REPORT OF THE SUPERINTENDENT OF EDUCATION, DELHI.**

1636. **\*Dr. Ziauddin Ahmad** (on behalf of Mr. M. Maswood Ahmad): Is it a fact that a special officer (Headmaster, Government High School, Ajmer) was deputed to write the quinquennial report for the Superintendent of Education, Delhi? Will Government kindly state the total expenditure incurred on account of this, including the travelling allowance, pay of

temporary stenographer and peons attached to this special officer? Will Government kindly state if a special officer was engaged on a previous occasion when the Educational Commissioner with the Government of India was holding this combined charge and wrote such a report? If not, having in view the large amount of extra expenditure incurred by Government in appointing a separate Superintendent of Education, will Government kindly give reasons for this extra financial drain on the budget during these financial stringency days?

**Mr. G. S. Bajpai:** A special officer was engaged for the purpose of drafting the next quinquennial report on education for Delhi, Ajmer-Merwara and Central India as the Superintendent has, since his appointment, been entrusted with the duties of a number of full-time and part-time officers, whose appointments have since been abolished, and he cannot, therefore, spare the requisite time for this work. The cost of the special arrangements referred to by the Honourable Member was Rs. 2,150.

#### CLASSES FOR TRAINING IN ORIENTAL LANGUAGES IN THE SIDDIQIA HIGH SCHOOL, DELHI.

1637. **\*Dr. Ziauddin Ahmad** (on behalf of Mr. M. Maswood Ahmad): Is it a fact that the present Superintendent of Education, Delhi, inspected the Siddiqia High School, Delhi? Is it a fact that this Siddiqia High School maintains classes for training in oriental languages (Arabic and Persian) in the school building? Is it a fact that these classes prepare students for the *Munshi Fazil* and other oriental language examinations of the Punjab University? Is it a fact that this school is maintained through the generosity of one single Muslim merchant who is interested in oriental languages? Is it a fact that while according recognition the Board of Secondary Education, Delhi, did not raise any objection to these classes? Are Government aware that while making his inspection, the Superintendent discouraged him to close these classes under the threat of withdrawing Government grant to the school? Are Government aware that this Muslim merchant preferred to suspend the high classes? Is it a fact that up to 1929 there was only one Muslim Anglo-Arabic High School in Delhi and that there were five high schools managed by Muslims of Delhi at the time the present Superintendent of Education took over charge and these five have now been reduced to four? Are Government aware that the attitude of the present Superintendent of Education is rather discouraging to the Muslims?

**Mr. G. S. Bajpai:** The answer to the first part of the question is in the affirmative. The classes in Arabic and Persian in the Siddiqia School, Delhi, are not recognised by the Education Department, but no objection has ever been raised by the Board of Secondary Education or by the Superintendent of Education, Delhi, to the retention of these classes, nor has the present Superintendent of Education ever discouraged the management of the school from continuing these classes. Government have no information as to whether these classes prepare students for the *Munshi Fazil* or any other oriental examination of the Punjab University. It is understood that this school is maintained largely through the generosity of a Muhammadan gentleman. The management have, on their own initiative, discontinued their High School classes, presumably on account of their unsatisfactory results secured in the High School and

School Leaving Certificate Examinations. As a result of this action, the number of Muslim High Schools in Delhi has decreased from five to four. Government have no reason to believe that the attitude of the present Superintendent of Education is discouraging towards Muslim education.

**CLERKS AND ASSISTANT PROFESSORS OF THE GOVERNMENT COLLEGE, AJMER.**

1638. \***Dr. Ziauddin Ahmad** (on behalf of Mr. M. Maswood Ahmad) : Will Government kindly state the total strength including clerks and assistant professors of the Government College, Ajmer, communitywise, and the percentage of each community on the staff of this college at the time when the present Superintendent of Education took over charge? Will Government kindly give the same information about this college as it stood on 1st November, 1932, with reasons for the fall of percentage of the Muslims?

**Mr. G. S. Bajpai:** A statement giving the information desired by the Honourable Member is laid on the table. There has been a fall in the percentage of Muslims and the matter is receiving attention.

*Statement showing the strength of the staff of the Government College, Ajmer, with percentage of each community.*

Date.	Total number of appointments in the College.	Christians.		Hindus.		Muslims.		Remarks.
		No.	Percentage.	No.	Percentage.	No.	Percentage.	
7th April 1931 (when present Superintendent of Education, Delhi, Ajmer-Merwara and Central India assumed charge of office).	17	1	6	14	82	2	12	
1st November 1932 .	20	..	..	18	90	2	10	

**STOPPAGE OF PUBLIC TRAFFIC AT DELHI JUMNA BRIDGE.**

1639. \***Mr. S. C. Mitra:** (a) Is it a fact that orders were issued to stop public traffic at Delhi Jumna Bridge on 16th November, 1932, from 1 P.M., for the free passage of military officers and soldiers?

(b) Is it a fact that only a small batch of military people reached the Shahdra end of the bridge at 11 A.M., and the officer in charge of the military batch ordered the police to stop public traffic forthwith?

(c) Is it a fact that the police constable immediately phoned to the Headquarters and informed the official on duty that only a small batch of the military had arrived before time which was fixed and the rest was on its way between Ghaziabad and Delhi which was due there after a couple of hours (the fixed time of their arrival)?

(d) Is it a fact that all kinds of traffic were ordered to be stopped at once until the whole battery of artillery arrived and passed?

(e) Is it a fact that a large number of motor buses, cars, carts, tongas and pedestrians had to wait at both ends of the bridge till 2-30 P.M.?

(f) Is it a fact that during this long period of three and a half hours several cars which were occupied by Europeans other than military people were not stopped by the Police while no car occupied by Indians was allowed to pass, which caused resentment and trouble?

(g) If the replies to the above questions be in the affirmative, will Government be pleased to state why this distinction was allowed to be made and what action do Government propose to take to safeguard the interest of Indians? If not, why not?

**The Honourable Mr. H. G. Haig:** (a) Traffic was closed from 11-45 A.M. on the 16th November, 1932, to permit the passage of the Meerut Artillery Brigade.

(b) and (c). Nothing is known of the incidents referred to in these parts of the question.

(d) Yes. This was essential as it would have been dangerous to have permitted any traffic on the bridge while a large number of horses and field guns as well as a baggage train were crossing.

(e) No. Traffic was only held up until 1-30 P.M.

(f) No. The Brigade arrived at the east side of the bridge at 12 Noon; the Officer Commanding intimated that the crossing would not commence before 12-20; in the interval a certain amount of fast traffic was permitted to cross from east to west as well as a number of pedestrians. At 12-15 all traffic was completely stopped and the Brigade started crossing a few minutes later. When the Brigade started crossing there were actually some pedestrians still on the bridge near the west end. By 1-30 P.M. the entire Brigade had cleared the bridge. The whole crossing only occupied one hour and ten minutes.

No discrimination was made at any time. In fact no requests were made by either Indians or Europeans as the necessity for holding up the traffic was obvious to all.

(g) Does not arise.

#### PROSPECTS FOR INDIAN ASSISTANT STATION MASTERS ON THE NORTH WESTERN RAILWAY.

1640. **\*Mr. Goswami M. R. Puri:** Are Government aware that there are no future prospects for Indian Assistant Station Masters on the North Western Railway? Is it a fact that the higher posts of Assistant Station Masters are given to junior and inexperienced guards? Is it a fact that although they have worked satisfactorily on big junctions like Delhi, Saharanpore, etc., yet they are not made permanent there? Is it correct that most of the chances of Train Controllers are given to other than Assistant Station Masters? Is it also a fact that men with 15 to 20 years' service are still in the lowest grade of Assistant Station Masters, while men with the same service as guards or in commercial line rise far higher? Are Government prepared to reserve class V or higher posts of Assistant Station Masters for Indians or introduce other openings such as B and C class guards, etc.?

**Mr. P. R. Rau:** With your permission, Sir, I propose to reply question Nos. 1640, 1641, 1643, 1644, 1645 and 1646 together.

Government have no information. I have sent a copy of these questions to the Agent, North Western Railway, for consideration of the points raised in them which are all within his competence to decide.

**DISCHARGE OF STATION MASTERS AND ASSISTANT STATION MASTERS ON THE NORTH WESTERN RAILWAY WHO PASSED THE LOWER STANDARD OF MEDICAL TEST.**

†1641. **\*Mr. Goswami M. R. Puri:** Is it a fact that the Station Masters and Assistant Station Masters on passing the lower standard of medical test, who were up till now given posts in the commercial line on the same pay, are now-a-days discharged on the ground that no suitable posts are available? Are Government aware that when these men were recruited they were sound in health and sight and that it is due to hard night duties that they have lost it? Are Government prepared to reserve a certain number of posts in the commercial line for such failures?

**SYSTEM OF MEDICAL EXAMINATION ON THE RAILWAYS.**

1642. **\*Mr. Goswami M. R. Puri:** Are Government aware that the present C system of medical examination in the Railways is considered by the staff as most difficult? What reasons have Government against the re-introduction of the Dott system as before? Is it a fact that Transportation staff have their specific duties of signals only? What objection have Government if they may only be tested in such lights? Why are they examined every third year? Will Government be pleased to place on the table a list of accidents due to short vision of the staff during 1932?

**Mr. P. R. Rau:** I have called for certain information and will lay a reply on the table in due course.

**PROMOTION OF ASSISTANT STATION MASTERS ON THE NORTH WESTERN RAILWAY.**

†1643. **\*Mr. Goswami M. R. Puri:** Are Government aware that in accordance with Delhi Divisional Order No. 741, Case No. 687/E./4, dated 23rd November, 1927, though the grade of Assistant Station Masters is Rs. 75 *per mensem* yet hundreds of such staff on the North Western Railway are blocked on Rs. 60 due to administrative inability for getting them qualified? Are Government prepared to grant them promotions from the due dates?

**PROMOTION OF ASSISTANT STATION MASTERS ON THE NORTH WESTERN RAILWAY.**

†1644. **\*Mr. Goswami M. R. Puri:** Are Government aware that by the introduction of course T8 in the training school of the North Western Railway many senior Assistant Station Masters waiting for course T6 are deprived of their overdue promotions while new men and juniors are given promotions prematurely? Are Government prepared to grant the senior men promotion from due dates?

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† For answer to this question, see answer to question No. 1640.

**REDUCTION OF THE GRADE OF ASSISTANT STATION MASTERS ON CERTAIN JUNCTION STATIONS IN THE DELHI DIVISION OF THE NORTH WESTERN RAILWAY.**

†1645. **\*Mr. Goswami M. R. Puri:** Is it a fact that the grade of Assistant Station Masters on certain junctions in Delhi Division of the North Western Railway has been reduced due to retrenchment and reduction of work? If so, will Government state why the grades of Station Masters on such stations have not been reduced?

**TRANSFERS OF ASSISTANT STATION MASTERS IN THE DELHI DIVISION OF THE NORTH WESTERN RAILWAY.**

†1646. **\*Mr. Goswami M. R. Puri:** Is it a fact that in the Delhi Division of the North Western Railway many Hindu Assistant Station Masters have been working in cabins for many years while Muhammadans are shifted from cabins after two or three months? Will Government be pleased to place on the table a list of transfers made in 1931-32 with reasons?

**ABSENCE OF WATER TAPS IN THE PAHARGANJ RAILWAY QUARTERS IN DELHI.**

1647. **\*Mr. Goswami M. R. Puri:** (a) Are Government aware that the staff living in Delhi Paharganj Railway Quarters are suffering much trouble without water taps inside their quarters? Is it a fact that this was sanctioned some four years back and officers assured the staff last year that this would be done on completion of the drainage scheme? Is that scheme completed? When can the staff expect the same?

(b) Is it also a fact that these quarters, no sooner are they occupied by the Engineering staff, than they are fitted with taps and soon after such staff vacates them, the taps are withdrawn?

**Mr. P. R. Rau:** (a) and (b). Government have no information. The matter is one for the Agent to decide, and I am sending him a copy of the Honourable Member's question for consideration, if any action is needed.

**APPEALS FROM THE RAILWAY STAFF RECEIVED IN THE RAILWAY BOARD.**

1648. **\*Mr. Goswami M. R. Puri:** Will Government be pleased to place on the table a statement showing the number of appeals from the Railway staff received in the Railway Board during the last three years and how they were disposed of? Is it a fact that nearly 99 per cent. of the appeals are returned to the respective Agents of Railways even in cases of dismissal discharge, and reductions? Are Government prepared to appoint an appeal section in every Divisional and Agents Office, composed of  $\frac{2}{3}$  independently selected staff and  $\frac{1}{3}$  officers?

**Mr. P. R. Rau:** As regards the first two parts of the question, I would refer the Honourable Member to the reply I gave to Mr. Lalchand Navalrai's question No. 1215 on the 14th November. As regards the last part, Government consider this suggestion impracticable.

†For answer to this question, see answer to question No. 1640.



## WEEKLY REST SYSTEM OVER THE NORTH WESTERN RAILWAY.

1649. \***Mr. Goswami M. R. Puri:** Are Government aware that since the introduction of the weekly rest system over the North Western Railway, staffs' trouble is greatly increased? Is it a fact that formerly there was only one weekly change in duties while now there are three? Is it a fact that the staff has to perform double, under rest and lengthy duties in order to get rest? Is not this against the Geneva Convention and the amended Railway Act? Have Government considered the question of introducing the East Indian Railway system or totally stopping the weekly rest system?

**Mr. P. R. Rau:** Government have no detailed information, but understand that the rosters are in conformity with the provisions of the recent amendment to the Railways Act and do not differ considerably from those on the East Indian Railway. A copy of this question has however been sent to the Agent, North Western Railway, to consider whether any action is necessary.

## INTER-TRANSFER OF STAFF ON STATE RAILWAYS.

1650. **Mr. Goswami M. R. Puri:** Are Government aware that innumerable staff on State Railways are anxious to go on to other State Railways, and is it a fact that many of them have applied for such transfers and exchanges, but have been disallowed? Do Government propose to issue a general circular inviting such applications and facilitate their sanction?

**Mr. P. R. Rau:** Government have no information as regards the first part of the question. They do not propose to invite applications for transfer between railways.

## ISSUE OF LOCAL PASSES TO SUBORDINATE STAFF ON STATE RAILWAYS.

1651. \***Mr. Goswami M. R. Puri:** Is it not a fact that all the State Railways are owned by one Government? Do Government issue local passes to and from a State Railway to subordinate staff? If not, why not? Is an unlimited number of passes issued to subordinate staff? If not, why not? Is an unlimited number of passes issued to highly paid officers?

**Mr. P. R. Rau:** In India, the term State Railways is usually taken to mean Railways owned by the Government of India. These, though owned by one authority, are divided for administrative convenience into separate self-contained systems. Passes to employees of one system are generally granted over another system in accordance with the rules for interchange of free passes agreed to by the different railway administrations. The number of passes, admissible in a year has for long been limited, in the case of passes other than first class passes, for obvious reasons and it is proposed to lay down a limit in the case of first class pass holders also in the revised rules for the issue of passes on State-managed Railways, which it is proposed to introduce from the 1st January.

## RETRENCHMENT OF RAILWAY EMPLOYEES.

1652. \***Mr. Goswami M. R. Puri:** Is it a fact that thousands of subordinate Railway employees have been retrenched due to fall of traffic

and decrease in work? Does it not affect the officers? If so, will Government please place on the table a statement showing the number of Officers and Inspectors retrenched and reduced?

**Mr. P. R. Rau:** During the economy campaign in 1931, about 40,000 subordinate employees of all sorts including labourers in workshops and in permanent-way gangs were discharged on all State-owned Railways. As regards superior officers, on State-managed Railways alone, about 134 posts have been abolished or held in abeyance and up to date about 47 officers have been discharged on account of retrenchment and many officiating officers reverted to their substantive subordinate posts. Government have no recent information about the number of officers retrenched on Company-managed Railways, or final figures as regards the number of inspectors retrenched on any railway. Full information is being collected and will be placed on the table in due course.

**Dr. Ziauddin Ahmad:** Is it not a fact that those officers who were retrenched were put on special duty and not really retrenched?

**Mr. P. R. Rau:** Those officers who have been retrenched have not been put on any special duty, Sir,

**Dr. Ziauddin Ahmad:** They are not definitely working in any department of the railways?

**Mr. P. R. Rau:** I presume the Honourable Member is referring to the fact that the number of posts abolished is larger than the number of officers retrenched. Against this you must set the fact that a large number of officers who were officiating have reverted to their substantive posts.

**Dr. Ziauddin Ahmad:** What I mean is this. Were those officers retrenched employed in other departments and not sent back?

**Mr. P. R. Rau:** I have already explained to the House that 47 officers have been discharged.

**Dr. Ziauddin Ahmad:** Is it a fact that they have been discharged in one place and reappointed in another place?

**Mr. P. R. Rau:** That is not correct.

#### RELEASE OF THE GARHWALI MILITARY PRISONERS.

1653. **\*Mr. C. S. Ranga Iyer:** Will Government be pleased to state:

- (a) if they propose to release the Garhwali (military) prisoners;
- (b) how many of them are still in prison;
- (c) how many have been released; and
- (d) whether they propose to remit the term of those who have not been released, and, if not, why not?

**Mr. G. R. F. Tottenham:** I propose, Sir, to give a general answer to the different parts of this question.

Of the 17 persons who were convicted by General Court Martial in the case referred to, eight have already been released and the remaining nine, who were given longer sentences, are still in jail. The releases already ordered are the result of the normal practice, by which His Excellency the Commander-in-Chief reviews periodically the sentences of all persons convicted by courts martial; but with this difference that in the present case, His Excellency has directed that the sentences should come up to him for review earlier than is usual. Those who have already been released had served only about half their sentences.

The Honourable Member will, I am sure, realise that the offence for which these prisoners were convicted was a most serious one and that it was necessary in the interests of the discipline of the Army as a whole, to take that fact into consideration in awarding the sentences. The sentences themselves varied according to the degree of culpability of each accused: and what I have already said will, I hope, show that although there can be no question of releasing all the remaining prisoners together, His Excellency the Commander-in-Chief has given, and will continue to give, the case of individuals the most careful consideration.

**DISPUTES OVER ARREAR PAYMENTS, ETC., BETWEEN THE CONTRACTORS AND THE KANGRA VALLEY RAILWAY ADMINISTRATION.**

1654. \***Bhai Parma Nand**: Will Government please state:

- (a) whether, with reference to the reply given by them on the 7th November, 1932, to question No. 863, (c) and (d), it is a fact that the case of Contractor Balwant Singh, under reference to the High Court, Lahore, has since been decided in favour of the contractor;
- (b) whether in the case of Durrell and Company, that was pending in the Court of the Senior Sub-Judge, Dharamsala, the North Western Railway have submitted to refer the case to arbitration on the score of the decision of the High Court, Lahore, in the case of Balwant Singh, contractor; and
- (c) whether the North Western Railway Administration have considered the advisability of referring the third case to arbitration, so that they are saved the expenses of litigation?

**Mr. P. R. Rau**: (a) Yes.

(b) Yes.

(c) I understand it has been decided by the administration after careful consideration and on legal advice to fight the case if it is taken to court.

**SCRUB JUNGLE BETWEEN THE BAIRD ROAD AND THE CANTONMENT ROAD, NEW DELHI.**

1655. \***Mr. B. N. Misra**: (a) Are Government aware that there is a scrub jungle between the Baird Road and the Cantonment Road, New Delhi (near the Tonga Stand)? If so, have Government considered the desirability of taking steps to have the jungle removed at an early date? If not, why not? Are Government aware that the jungle is the abode of snakes, jackals, mosquitoes, flies, etc.?

(b) Are Government aware that the inhabitants of the locality are afraid of using the back doors of their houses during the day time even, not to speak of night time, on account of the refuses which are deposited there? Are Government aware that it is injurious to the health of the tenants of the locality from a sanitary point of view?

**Mr. G. S. Bajpai:** (a) and (b). The Honourable Member is perhaps referring to a small closed Muhammadan grave-yard measuring about 300 square yards. Government have not precisely investigated the nature and extent of its zoological population but have no reason to believe that it is so dangerous as the Honourable Member appears to think. There are also no visible signs of insanitation there. The policy of Government is not to interfere with areas devoted to the disposal of the dead.

#### INSOLVENCY OF THE EMPLOYEES OF THE IMPERIAL SECRETARIAT.

1656. **\*Mr. B. N. Misra:** (a) Are Government aware that a number of their employees employed in the Imperial Secretariat have of late applied to be or have been declared insolvent? If so, will Government please place a statement on the table of the House showing the number of such employees in each department for the three years ending October, 1932, together with the amount shown against them as their assets and liabilities?

(b) Do Government consider insolvency a misconduct under the Government Servants' Conduct Rules? If so, will they please state what action, if any, they have already taken or propose to take in the matter to prevent a recurrence of such cases?

**The Honourable Mr. H. G. Haig:** (a) In all six clerks or assistants applied during this period to be declared insolvent or announced their intention of applying, and in addition three others were actually declared insolvent. Of the above, three are no longer in Government service.

(b) The attention of the Honourable Member is invited to rule 16 of the Government Servants' Conduct Rules.

#### SCHOOL FOR THE TRAINING OF GROUND AND MOTOR ENGINEERS IN INDIA.

1657. **\*Mr. Arthur Moore:** Will Government please state whether it is proposed to start a school for the training of ground and motor engineers in India?

**The Honourable Sir Frank Noyce:** Proposals for the establishment of a school for the training of mechanics and ground engineers for civil aviation have been under examination, but no conclusions have been reached.

#### RATE WAR STARTED BY THE BRITISH INDIA STEAM NAVIGATION COMPANY.

1658. **\*Dr. Ziauddin Ahmad:** (a) Are Government aware that the British India Steam Navigation Company reduced the Chittagong-Rangoon deck fare gradually to nil, even rewarding passengers with handkerchiefs and oranges soon after the establishment of the Bengal Steam Navigation Company in 1912 and that on the latter going into liquidation in 1911, the former doubled the fare and continued it till 1927? Is it a fact that on the establishment of Bengal Burma Steam Navigation Company the British India Steam Navigation Company again reduced its fare and

freight to less than half? Is it also a fact that when the Bengal Steam Navigation Company suspended services temporarily to repair their boat, the British India Steam Navigation Company raised the fare by Rs. 2? If not, what are the facts?

(b) Are Government prepared to take necessary steps to stop the rate war now started by the British India Steam Navigation Company?

**The Honourable Sir Joseph Bhore:** (a) As regards the competition between the British India Steam Navigation Company and the Bengal Steam Navigation Company in 1910-11 the Government of India are not in possession of authentic information on the subject. As to the reduction of rates by the British India Steam Navigation Company as against the Bengal Steam Navigation Company the attention of the Honourable Member is invited to the reply to part (b) of his question No. 987 asked in this House on the 8th November, 1932. The Government of India understand that the British India Steam Navigation Company raised their fares for deck passengers between Chittagong and Rangoon by Rs. 2 in July, 1932.

(b) The matter is at present engaging the attention of the Government of India.

**RESOLUTION OF THE UNITED PROVINCES LEGISLATIVE COUNCIL *RE* FURTHER RETRENCHMENT IN THE CENTRALLY-MANAGED DEPARTMENTS.**

1659. **\*Dr. Ziauddin Ahmad:** (a) Is it a fact that the Provincial Legislative Council of the United Provinces passed a resolution asking the Government of India to carry on further retrenchments in centrally managed departments?

(b) What action do Government propose to take on the suggestion of the United Provinces Legislative Council?

(c) Will the 10 *per cent.* cut in salaries continue in the financial year 1933-34?

**The Honourable Mr. H. G. Haig:** (a) The Honourable Member presumably refers to a Resolution which I have seen reported in the Press in regard to the All-India Services,

(b) The Resolution has not yet been received by the Government of India.

(c) I am not able to add anything to the reply given by the Honourable the Finance Member to starred question No. 1478 asked by Mr. Goswami Puri on the 28th November, 1932.

**Mr. F. E. James:** May I ask whether Provincial Governments are free to restore the cuts in the Provincial Services in the event of an improvement in Provincial Finances, or are the Provincial Services and the Imperial Services to be taken together for the purpose of the restoration of cuts?

**The Honourable Mr. H. G. Haig:** That is a rather complicated question to address to the Home Department and, I am afraid, I could not attempt to answer it without notice.

**Dr. Ziauddin Ahmad:** May I ask whether there is any system under which Resolutions passed by Provincial Councils are regularly sent to the Government of India?

**The Honourable Mr. H. G. Haig:** I have no doubt that the Local Government will in due course forward a copy of the Resolution with their own recommendations.

**Dr. Ziauddin Ahmad:** During the time of the present Councils and the present Legislative Assembly?

**The Honourable Mr. H. G. Haig:** I hope so, Sir. The new constitution is not quite upon us yet.

**CHARGES FOR METER RENT AND WATER CONSUMPTION IN PRIVATE HOUSES IN NEW DELHI.**

1660. **\*Kumar Gupteshwar Prasad Singh** (on behalf of Mr. Uppi Saheb Bahadur): (a) Is it a fact that in privately-owned houses in New Delhi a meter rent of Rs. 2 p. m. and a minimum charge of Rs. 3 p. m. (i.e., a total of Rs. 5 a month) are levied for water consumption?

(b) Is it a fact that the minimum charge of Rs. 3 p. m. (which according to the prescribed rate of 6 annas per 1,000 gallons, covers the cost of 8,000 gallons of water) is levied irrespective of the actual amount of consumption, i.e., even if the actual consumption be far below 8,000 gallons, say 8 gallons only?

(c) If the replies to parts (a) and (b) above are in the affirmative, do Government propose to consider the desirability of levying charges on the basis of the actual amount of consumption every month as is done in the case of electric charges?

**Mr. G. S. Bajpai:** (a) and (b). Yes.

(c) The question concerns the Municipality. Government understand that a minimum charge is necessary to enable the Committee to cover interest on capital and overhead charges.

**CHARGES FOR METER RENT AND WATER CONSUMPTION IN PRIVATE HOUSES IN NEW DELHI.**

1661. **\*Kumar Gupteshwar Prasad Singh** (on behalf of Mr. Uppi Saheb Bahadur): (a) Is it a fact that a minimum charge of Rs. 5 p. m. (viz., Rs. 3 on account of water consumption and Rs. 2 on account of meter rent) is levied in the case of privately-owned houses in New Delhi on account of water consumption?

(b) What are the water charges levied in the case of Government clerks' quarters in New Delhi? Is any meter rent charged and if so, what? Are the charges for water consumption made on the basis of actual consumption every month or some minimum amount is charged irrespective of the quantity consumed?

(c) If the replies to parts (a) and (b) above show that charges in the two cases referred to are made on different bases, what are the reasons for such differentiation, and do Government propose to make the system uniform in both the cases?

**Mr. G. S. Bajpai:** (a) Yes.

(b) A statement giving the required information is laid on the table. No rent for meters is charged as these belong to Government.

(c) It is proposed to meter all connections in clerks' quarters shortly. The system of charges according to consumption, subject to a prescribed minimum, will then apply to them. The only difference between Government and private quarters would then be that in the case of clerks' quarters the minimum charge would be lower. This is probably due to the fact that the charge for private residences has been made on the analogy of residences of Government Gazetted Officers. If any owners or occupants of private buildings feel aggrieved by this, it is open to them to make representations to the New Delhi Municipal Committee.

*Statement showing water charges levied in case of Government Clerks' Quarters in New Delhi.*

1. *Unorthodox Clerks' quarters (metered).*      Rs. 1-8-0 per mensem per quarter. This covers a net supply up to 4,000 gallons. Any consumption in excess is charged for at As. 6 a 1,000 gallons.
2. *Orthodox Clerks' quarters (unmetered) :—*

Class.	No. of taps allowed for each class.	Rate.	Remarks.
		Rs. a. p.	
A.	3	3 0 0 per mensem.	} For every tap in excess of the fixed scale, a charge of Re. 0-8-0 per mensem is levied.
B.	2	2 0 0 „	
C.	2	2 0 0 „	
D.	1	1 8 0 „	
E.	1	1 8 0 „	

**RE-INSTATEMENT OF MR. DAULAT RAM, ACCOUNTANT OF THE HORTICULTURAL DIVISION, DELHI.**

1662. **\*Mr. S. G. Jog:** (a) Is it a fact that one Mr. Daulat Ram, Accountant of the Horticultural Division, was discharged by the Police in the Horticultural Division case in October, 1931, in the same circumstances as Mr. Edge who was involved in the Barakhamba case? If so, will Government please state why the former has not yet been reinstated in his appointment, although the latter was taken back immediately after his release by the Police?

(b) Do the circumstances of the two cases differ? If so, will Government please state how the two cases differ?

**The Honourable Sir George Schuster:** Enquiry is being made and a reply will be laid on the table in due course.

**ABOLITION OF APPOINTMENTS IN THE POST OFFICES AND RAILWAY MAIL SERVICE AS A RETRENCHMENT MEASURE.**

**1663. \*Mr. S. O. Mitra:** (a) Will Government be pleased to furnish a statement showing the number of selection grade appointments in the grade of Rs. 160—250 and Rs. 250—350 and time-scale appointments that have been abolished as a retrenchment measure up till now in the Post Offices and Railway Mail Services in each circle as well as in each of the presidency towns of Calcutta, Bombay and Madras?

(b) Is it a fact that the number of selection grade posts which have been abolished is proportionately larger in the Bengal and Assam Circle?

(c) If so, will Government state the reasons?

**Mr. T. Ryan:** (a), (b) and (c). Government regret that the information required by the Honourable Member is not readily available. On account of the heavy fall in postal traffic within the last two years and the urgent need for economy, Heads of Postal Circles are taking steps to abolish all posts which are found to be in excess of actual requirements.

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**UNSTARRED QUESTIONS AND ANSWERS.**

**TRANSFER OF THE OFFICES OF THE SUPERINTENDENTS OF POST OFFICES OF HOOGHLY AND PRESIDENCY DIVISIONS FROM CALCUTTA TO CHINSURA AND BARRACKPORE, RESPECTIVELY.**

**227. Mr. S. O. Mitra:** (a) Will Government be pleased to state whether it is a fact that the offices of the Superintendents of Post Offices of Hooghly and Presidency Divisions in the Bengal and Assam Circle were transferred to Chinsura and Barrackpore respectively from Calcutta on the grounds of economy?

(b) Is it a fact that now Government contemplate to retransfer the office of the Superintendent of Post Offices, Presidency Division, to Calcutta?

(c) If the reply to (b) be in the affirmative, will Government be pleased to state what is the reason for retransfer? What was the actual expenditure at the time of transfer of the office from Calcutta to Barrackpore and what will be the expenditure now? What amount will be expended on account of compensatory allowance, house rent allowance, etc., for the Superintendent, Head Clerk, Inspector and other staff, if the office is transferred to Calcutta and what is the present expenditure on those items?

**Mr. T. Ryan:** (a) Yes, but the reasons for the transfer were administrative; though some economies did result.

(b) and (c). Government have no information. The headquarters of each Divisional Superintendent of Post Offices are fixed by the Head of the Postal Circle concerned. A copy of the question is being sent to the Postmaster General, Bengal and Assam.



**CLERKS AND SIGNALLERS IN THE STRAND ROAD AND CORNWALLIS STREET SUB-POST OFFICES, CALCUTTA.**

**228. Mr. S. C. Mitra:** (a) Will Government please furnish a statement showing (i) the number of clerks and signallers in the Strand Road combined town sub-post office and (ii) the number of clerks in the Cornwallis Street town sub-post office, Calcutta?

(b) Is it a fact that the Strand Road Post Office is more important than the Cornwallis Street Post Office and the former is in charge of a time-scale sub-postmaster while the latter is in charge of a selection grade sub-postmaster?

(c) Is it a fact that the Postal Enquiry Committee recommended that an office with five clerks should be placed under the charge of a selection grade official? If so, are Government prepared to sanction a selection grade post for the Strand Road Post Office? If not, why not?

**Mr. T. Ryan:** (a) (i) Five

(ii) Six.

(b) No, the Cornwallis Street town sub-post office is the more important. The scales of pay of the two sub-postmasters are as stated by the Honourable Member.

(c) The reply to the first part of this question is in the affirmative. As regards the second part, the matter will be decided on the receipt from the Postmaster General, Bengal and Assam, of definite recommendations which are being called for.

**OVERTIME ALLOWANCE FOR SORTING OF ENGLISH MAILS IN THE GENERAL POST OFFICE, CALCUTTA.**

**229. Mr. S. C. Mitra:** (a) Is it a fact that inward English mails are sorted in the Calcutta General Post Office by drafting clerks from other departments without payment of any overtime allowance?

(b) Is it also a fact that the Assistant Postmaster in charge of the sorting gets overtime allowance, although he performs this duty within his duty hours, i.e., between 10-0 A.M. and 6-0 P.M. on week days?

(c) Will Government please state why overtime allowance is paid to the Assistant Postmaster, although it is denied to other clerks?

**Mr. T. Ryan:** (a) Yes. The Honourable Member's attention is invited to part (a) of his starred question No. 794 in this House on the 14th March, 1932, and to its reply which was laid on the table on the 5th September, 1932.

(b) and (c). Inquiries are being made and the result will be laid on the table in due course.

**ABOLITION OF APPOINTMENTS IN OFFICERS' RANK IN THE POSTS AND TELEGRAPHS DEPARTMENT.**

**230. Mr. S. C. Mitra:** Will Government please furnish a statement showing:

(a) the total number of appointments in the officer's rank that existed in the Post and Telegraphs Department at the end of the year 1929 and the total amount of pay and allowances they carried; and

- (b) the total number of such appointments abolished up to 31st October, 1932, and the total amount of annual saving effected thereby?

**Mr. T. Ryan:** (a) The total number of posts of Officer's rank in 1929 was 574 and the total pay and allowances they carried was approximately Rs. 48,22,000 a year.

(b) The total number of such posts abolished is 65 and the total annual saving effected is about Rs. 5,43,000.

**ABOLITION OF APPOINTMENTS OF SUPERINTENDENTS OF POST OFFICES AND RAILWAY MAIL SERVICE.**

**231. Mr. S. O. Mitra:** (a) Will Government please furnish a statement showing, circle by circle, the number of appointments of Superintendents of Post Offices and Railway Mail Service abolished up to 31st October, 1932, and the total amount of annual saving effected thereby?

(b) What number of such appointments was recommended for abolition by the Post and Telegraphs Retrenchment Advisory Committee?

(c) Have Government given full effect to the recommendation? If not, why not?

**Mr. T. Ryan:** (a) The figures are as follows:

Name of Circle.	No. of posts abolished up to 31st October, 1932.	Average annual saving effected (excluding allowances attached).
Bengal and Assam . . . . .	8	Rs. 40,940
Bihar and Orissa . . . . .	2	12,582
Bombay . . . . .	7	28,358
Burma . . . . .	2	12,582
Central . . . . .	2	12,582
Madras . . . . .	6	32,006
Punjab and N.-W. F. . . . .	4	25,164
Sind and Baluchistan . . . . .	1	6,291
United Provinces . . . . .	3	18,873

(b) 33.

(c) The reply to the first part is in the affirmative: Two posts have, in addition, been abolished as the result of reorganisation of work in the Railway Mail Service. The latter part does not arise:

**ABOLITION OF APPOINTMENTS OF TELEGRAPH MASTERS AND TELEGRAPHISTS.**

**232. Mr. S. C. Mitra:** (a) Will Government please furnish a statement showing:

- (i) the total number of appointments of Telegraph Masters and Telegraphists, respectively, that existed up to the end of the year 1929;
- (ii) the number of appointments of Telegraph Masters and Telegraphists abolished or absorbed up to 31st October, 1932, and the total amount of annual saving effected thereby; and
- (iii) what number of such appointments was recommended for abolition or absorption by the Post and Telegraphs Retrenchment Advisory Committee and on what grounds?

(b) Have Government given full effect to the recommendation? If not, why not?

**Mr. T. Ryan:** (a) The information is given in the subjoined table:

(i) Total number of posts of Telegraph Masters and Telegraphists in 1929.	(ii) Total number abolished or absorbed up to October, 1932 and annual Saving.	(iii) Total number recommended for abolition or absorption by the Posts and Telegraphs Retrenchment Sub-Committee and grounds for recommendation.
Telegraph Masters . 326 Telegraphists . 2,830	Telegraph Masters. 48 Telegraphists . 184 Annual Saving Rs. 53,600	Telegraph Masters . 140 Telegraphists . 228 The reasons are given in paragraphs 162 and 168 of the Committee's Report a copy of which is in the Library of the House.

(b) Partial effect has already been given to the recommendations of the Sub-Committee, and further orders are under issue.

**APPOINTMENTS OF DEPUTY SUPERINTENDENTS, TELEGRAPHS.**

**233. Mr. S. C. Mitra:** (a) Will Government please furnish a statement showing the total number of appointments of Deputy Superintendents Telegraphs, that existed at the end of the year 1929 and the total number of such appointments abolished up to 31st October, 1932?

(b) What is the approximate annual saving effected by the abolition?

**Mr. T. Ryan:** (a) and (b). The information is given in the subjoined table:

(1) Total number of posts of Deputy Superintendents, Telegraph Traffic, in 1929.	(2) Number of posts actually abolished up to October, 1932.	(3) Annual saving.
51	1	Rs. 5,065

**ABOLITION OF APPOINTMENTS IN THE TELEGRAPH ENGINEERING BRANCH.**

**234. Mr. S. C. Mitra:** Will Government please furnish a statement showing the total number of appointments in the Telegraph Engineering Branch abolished up to 31st October, 1933, and the total amount of annual saving effected thereby?

**Mr. T. Ryan:** The information is given in the subjoined table:

Total number of posts in the Telegraph Engineering Branch of the Indian Posts and Telegraphs Department abolished up to October, 1932.	Total amount of annual saving (average) effected.
328	Rs. 2,43,000

**APPOINTMENTS IN CERTAIN POSTAL CADRES.**

**235. Mr. S. C. Mitra:** Will Government please state the total number of appointments in the following cadres that existed up to the end of the year 1929:

- (a) Higher selection grade of Rs. 250—350 in the Post Offices,
- (b) Higher selection grade of Rs. 250—350 in the Railway Mail Service,
- (c) Inspectors of Post Offices and Railway Mail Service including Investigating Inspectors,
- (d) Head Clerks to Superintendents,
- (e) Town Inspectors in Selection Grades,
- (f) Lower Selection Grade of Rs. 160—250 in the Post Office excluding appointments of Inspectors of Post Offices and Superintendents' Head Clerks,
- (g) Lower Selection Grade of Rs. 160—250 in the Railway Mail Service excluding appointments of Inspectors, Railway Mail Service and Superintendents' Head Clerks,
- (h) Postal Clerks in ordinary time-scale,
- (i) Postal Clerks in Lower Division,
- (j) Railway Mail Service Sorters in the ordinary time-scale, and
- (k) Railway Mail Service Sorters in Lower Division?

**Mr. T. Ryan:** I propose to deal with two questions Nos. 235 and 236 together.

Government regret that the information required for purposes of question No. 235 and part (a) of question No. 236 is not readily available. The position is that on account of the very heavy fall in both postal and telegraph traffic during the last two years and of the unsatisfactory state of the finances in the Posts and Telegraphs Department, Heads of Postal Circles have taken, and are continuing to take, steps towards securing all reasonable economies, and posts not only of the classes mentioned by the Honourable Member but also of other classes, which are found in excess of actual requirements, are being abolished, or reduced from a higher to a lower scale of pay.

The remaining parts of question No. 236 are replied to as follows:

(b) The Honourable Member's attention is invited to the reply given in this House to his starred question No. 206, on the 13th September, 1932, and to what I have just stated.

(c) No. The second part of the question does not arise.

(d) The Committee recommended that 33 per cent. of the clerical cadre should be converted into lower division posts. To give effect to this recommendation and in view of the pressing need for economy it has become necessary to adopt measures for the abolition of posts in the ordinary clerical time-scale or for their conversion into lower division posts.

(e) Yes.

#### ABOLITION OF APPOINTMENTS IN CERTAIN POSTAL CADRES.

† 236. **Mr. S. C. Mitra:** (a) Will Government please furnish a statement showing, circle by circle, the number of appointments abolished up to 31st October, 1932, and the approximate annual saving effected thereby in each of the following cadres:

- (i) Higher selection grade of Rs. 250—350 in the Post Offices,
- (ii) Higher selection grade of Rs. 250—350 in the Railway Mail Service;
- (iii) Inspectors of Post Offices and Railway Mail Service including Investigating Inspectors;
- (iv) Head Clerks to Superintendents of Post Offices and Railway Mail Service;
- (v) Town Inspectors in Selection Grade;
- (vi) Lower selection grade of Rs. 160—250 in the Post Office excluding Inspectors of Post Offices and Superintendents' Head Clerks;
- (vii) Lower selection grade in the Railway Mail Service excluding Inspectors, Railway Mail Service and Superintendents' Head Clerks;
- (viii) Postal Clerks in ordinary time-scale; and
- (ix) Railway Mail Service sorters in ordinary time-scale?

(b) Did the Post and Telegraphs Retrenchment Advisory Committee recommend any reduction of selection grade appointments in the Post Offices and Railway Mail Service? If not, what are the grounds for reduction of such appointments and what is the criterion that is being followed in effecting such reductions?

(c) Is it not a fact that the percentage of selection grade appointments in the Telegraph Branch is considerably higher than those in the Post Offices and Railway Mail Service? If so, will Government please state the reasons for such disparity?

(d) Did the Post and Telegraphs Retrenchment Advisory Committee recommend any reduction of time-scale clerical appointments in the Post Offices and Railway Mail Service? If not, what are the reasons for reduction in these appointments and what is the criterion that is being followed in effecting such reductions?

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† For answer to this question, see answer to question No. 235.

(e) Are the reductions in the selection grade and time-scale appointments in the Post Offices and Railway Mail Service being effected in conformity with a strict standard of efficiency?

#### ABOLITION OF APPOINTMENTS IN CERTAIN POSTAL CADRES.

237. **Mr. S. C. Mitra:** (a) Will Government please furnish a statement showing, circle by circle, the figures up to 31st October, 1932, the number of posts abolished and the approximate annual saving effected in each of the following cadres:

- (i) Overseers,
- (ii) Postmen and Village Postmen,
- (iii) Mailpeons,
- (iv) Packers,
- (v) Vanpeons, and
- (vi) Messengers and Runners?

(b) Is there any time-test for regulating the number of the staff in the above cadres? If not, what standard is being followed in effecting the reductions?

**Mr. T. Ryan:** (a) Government regret that the information is not readily available.

(b) There are rough standards for regulating the number of some classes of staff referred to but no precise time test. On account of the heavy fall in postal traffic within the last two years and the urgent need for economy, Heads of Postal Circles are taking steps to reduce all posts which are found to be in excess of actual requirements.

#### DEPARTMENTAL SUB AND BRANCH POST OFFICES CONVERTED INTO EXTRA DEPARTMENTAL OFFICES.

238. **Mr. S. C. Mitra:** (a) Will Government please furnish a statement showing, circle by circle, the number of Departmental Sub and Branch Post Offices converted into extra Departmental Offices up to 31st October, 1932?

(b) What is the criterion followed in effecting such conversions?

**Mr. T. Ryan:** (a) The latest figures available are those for the period ending the 31st August, 1932, and are as follows:

	Sub Offices.	Branch Offices.
Bengal and Assam Circle . . . . .	64	83
Bihar and Orissa Circle . . . . .	43	60
Bombay Circle . . . . .	nil.	53
Burma Circle . . . . .	28	22
Central Circle . . . . .	7	31
Madras Circle . . . . .	18	43
Punjab and N.-W. F. Circle . . . . .	50	66
Sind and Baluchistan Circle . . . . .	1	5
United Provinces Circle . . . . .	75	37

(b) There is no fixed criterion, but an extension of the system of employing Extra-Departmental Agents to hold charge of small post offices was recommended by the Posts and Telegraphs Sub-Committee of the Retrenchment Advisory Committee as likely to result in important economies and such an extension is now being carried out wherever conditions permit.

#### REDUCTION IN THE NUMBER OF RAILWAY MAIL SERVICE SETS.

239. **Mr. S. C. Mitra:** Will Government please furnish a statement showing the number of Railway Mail Service sets reduced up to 31st October, 1932, and the names of Railway Mail Service Divisions concerned in such reduction?

**Mr. T. Ryan:** Government are not in possession of the information for which the Honourable Member has asked. Under the general orders issued in July, 1930, the Head of each Postal Circle is authorised to re-examine the number of sets in each of the Railway Mail Service sections under his control, and to re-adjust them where necessary.

#### EXPIRY OF TEN PER CENT. EMERGENCY CUT.

240. **Mr. S. C. Mitra:** (a) Has the attention of Government been drawn to the report published in the *Hindustan Times*, dated the 16th October, 1932, from its special correspondent under the caption "Battle over 10 per cent. cut"?

(b) If the reply to part (a) be in the affirmative, will Government please state if there is any prospect of the emergency cuts on salaries being terminated on the expiry of March, 1932?

(c) If the reply to the above be in the negative, will the cuts be continued at the present rates or at revised rates?

(d) Is there any prospect of the lower-paid staff drawing below Rs. 40 per month in the Railways and Post and Telegraphs Departments being exempted from salary cuts as in other departments? If not, why not?

**The Honourable Sir George Schuster:** (a) Government have seen the article referred to.

(b), (c) and (d). I have nothing to add to the replies given to starred questions Nos. 143 and 1478.

#### REVISED SCALES OF PAY FOR FUTURE ENTRANTS.

241. **Mr. S. C. Mitra:** (a) Will Government please state if any decision has been arrived at in the matter of revised scales of pay for future entrants and the date from which they will be introduced?

(b) If the reply to the above be in the affirmative, will the scales of pay be revised both for the higher and subordinate services?

(c) Will present incumbents on promotion from lower to higher grades be put in the existing or revised scales of pay?

**The Honourable Sir George Schuster:** (a), (b) and (c). I would refer the Honourable Member to the reply given by me to starred question No. 1456 on the 28th November, 1932.

**STRICTURES PASSED BY A GUJRANWALA MAGISTRATE IN THE CASE OF CROWN  
VERSUS HAVELI RAM.**

**242. Mr. S. C. Mitra:** (a) Has the attention of Government been drawn to the severe strictures passed by Ch. Partab Singh, First Class Magistrate, Gujranwala, on the conduct of Mian Ahmed Said, Superintendent of Post Offices and B. Mohammed Shafi, Clerk, Ladhewala Waraich in the judgment delivered by him in the case of Crown *vs.* Haveli Ram?

(b) If the reply to part (a) be in the affirmative, what action do Government propose to take against the above-named persons?

(c) What is the total amount of expenditure incurred by Government in connection with the case?

(d) Do Government propose to recover the whole of the amount expended in the case from Mian Ahmed Said? If not, why not?

**Mr. T. Ryan:** (a) Government have seen the observations to which they understand the question refers, but do not think they amount to "severe strictures".

(b) and (d). Certain enquiries are being made and Government have not yet decided whether any action is necessary.

(c) Government have no precise information.

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**STATEMENTS LAID ON THE TABLE**

**The Honourable Sir George Schuster** (Finance Member): Sir, I beg to lay on the table the information promised in reply to unstarred questions Nos. 210 to 213 asked by Khan Bahadur Haji Wajihuddin on the 21st November, 1932.

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**COMMUNAL COMPOSITION OF THE OFFICE OF THE ACCOUNTANT GENERAL,  
UNITED PROVINCES.**

210. The communal composition so far as Muslims are concerned is not exactly as stated by the Honourable Member in his question. The following statement shows full details:

Total number of posts.	Posts held by Mussalmans.
5 Assistant Accounts Officers . . . . .	<i>Nil.</i>
43 Permanent subordinate service Accountants including 4 senior Accountants of the All-India List. In addition there is one post sanctioned up to February 1933 .	<i>Nil.</i>
387 Clerks (378 Permanent and 9 temporary) . . . . .	42 permanent and 1 officiating
12 Typists (11 permanent and 1 temporary) . . . . .	1 Permanent.
13 Record Clerks (11 permanent and 2 temporary) . . . . .	2 Permanent and 1 temporary.



### CONFIRMATION OF MUSLIM CLERKS IN THE OFFICE OF THE ACCOUNTANT GENERAL, UNITED PROVINCES.

211. (a) Yes; the number was 34, and it was reduced to 10, not 11.

(b) Yes; 55 clerks only have been confirmed.

(c) Nine out of ten temporary Muslim clerks and six of other minority communities have been confirmed.

(d) Of vacancies occurring since March, 1926, one-third have been either actually filled by members of the minority communities, or reserved for them. In view of the temporary suspension by Government of permanent promotions of persons not in Government service prior to the 16th July, 1931, members of the minority communities recruited subsequent to the 15th July, 1931, have not been confirmed, but have been appointed to officiate against permanent vacancies. The re-appointment of discharged clerks is made according to seniority subject to the condition that one out of every three vacancies is given to a member of the minority communities.

### PROPOSED REMOVAL OF TWO MUSLIM TEMPORARY CLERKS IN THE UNITED PROVINCES ACCOUNTS OFFICE.

212. On the abolition of the machine system and the consequent discharge of the machinists, two of them (one Muslim and one Hindu) were retained as typists. The Auditor General has not issued any orders that 2 senior Muslim discharged clerks should replace two Muslim machinists. The discharged clerks and machinists will be re-employed as vacancies occur with due regard to seniority and communal proportions. One such discharged Muslim clerk who is senior to the discharged machinists has been reappointed recently.

### SAFEGUARDING OF MUSLIM INTERESTS IN THE OFFICE OF THE ACCOUNTANT GENERAL, UNITED PROVINCES.

213. Instructions were issued on 9th November, 1929, which might have been construed in the sense suggested by the Honourable Member, but a circular letter, issued on 26th November, 1929, made it clear that only one-third of all future vacancies should go to members of minority communities, and the latter instructions were followed. Retrenchment of temporary clerks was made in accordance with the instructions issued by the Government of India on the subject. It is not a fact that all Muslim clerks recruited between 1926 and 1931 have been discharged. Three of such clerks have been made permanent recently and another Muslim clerk has been re-employed.

The abolition of certain permanent posts in consequence of the relaxation of audit affects the interests of all the communities proportionately.

There are eight vacancies due to the deputation of permanent men of both majority and minority communities to other offices. No officiating arrangements have yet been made owing to the small number of men on leave. They will be filled up as and when the necessity arises.

**The Honourable Mr. H. G. Haig** (Home Member): Sir, I lay on the table the information promised in reply to starred question No. 1118 asked by Mr. S. C. Mitra on the 14th November, 1932.

### INSUFFICIENCY OF CLOTHES PROVIDED FOR PRISONERS IN THE AJMER CENTRAL JAIL.

1118.\* In most of the centrally administered areas, prisoners in jail are supplied with two sets of garments. Where they are provided with only one they are also given, in addition, a *langot* or a loin cloth. In the Ajmer Central Jail, prisoners are provided with one garment and in addition, one *langot* or *rumali* and one large towel.

**Mr. G. S. Bajpai** (Secretary, Department of Education, Health and Lands): Sir, I lay on the table the information promised in reply to starred question No. 1457 asked by Mr. Muhammad Yamin Khan on the 28th November, 1932.

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1457.\* (a) (i) The road, to which the Honourable Member refers, is a pucca road belonging to the Delhi Municipality whose surface has become overlaid with dust from building rubbish not filth which has been thrown on both sides of it. Its condition is not a menace to the health of the locality nor has the health officer suggested that it is. When the attention of the Chairman of the Municipality was drawn to its present state, he visited it and steps have been taken to improve its condition. The question of removing the mounds of earth which have accumulated in front of the Turkman Gate is also under consideration.

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**Mr. T. Ryan** (Director General of Posts and Telegraphs): Sir, I lay on the table the information promised in reply to parts (b) to (d) of starred question No. 1246 asked by Mr. Bhuput Singh on the 16th November, 1932.

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4  
DELAY IN DELIVERING AN INSURED LETTER SENT BY ONE MR. SRI PRAKASH FROM THE KABIR CHOURA POST OFFICE OF BENARÉS TO SRI HARI SHANKAR BIDYARTHI, EDITOR OF *DAINIK PRATAP*.

1246.\* (b) Yes.

(c) The article was detained in accordance with an order under Ordinance No. II of 1932.

(d) Does not arise.

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### DEATH OF SIR NARASIMHA SARMA.

**The Honourable Sir Brojendra Mitter** (Leader of the House): Sir, on the opening day of this Session, we had to mourn the death of Sir Ali Imam. Today, another loss claims our grief. Sir Narasimha Sarma, to whose demise I refer, was known to many Members of this House, in which he sat on these Benches, not many years ago, as a Member of the Governor General's Executive Council. Only last month, Sir, he was in Delhi, and those of us who met him then little thought that it was for the last time. After a varied career as teacher and lawyer, Sir Narasimha came into public prominence as an informed and independent spokesman on economic questions in the Old Imperial Legislative Council. At that time, his political views were those of the Indian National Congress which had derived inspiration and counsel from Sir Pherozshah Mehta and Sir Surendra Nath Banerjee. When that body passed under the influence of the left wing, Sir Narasimha, like many other distinguished Indians, severed his connection with it. But that signified no change of his own principles. He remained, ever afterwards, what he had always been, a progressive but practical and constructive politician. During his tenure of office as Member of the Executive Council, Government could always rely on him for independent but sane and helpful counsel. When he relinquished charge of that high post, he was appointed Chairman of the newly-created Railway Rates Advisory Committee for which his legal

[Sir Brojendra Mitter.]

experience and judicial disposition eminently fitted him. His sudden death is a great loss to the Committee and to Government. It must also be a sad bereavement to relatives and friends whom his kindly and affectionate nature had greatly endeared him. On behalf of Government, Sir, I would ask you to convey to his family an expression of our sympathy and sorrow.

**Mr. R. K. Shanmukham Chetty** (Salem and Coimbatore *cum* North Arcot: Non-Muhammadian Rural): Sir, I wish to associate Members of the Nationalist Party with the tribute paid to the memory of the late Sir Narasimha Sarma.

**Sir Abdur Rahim** (Calcutta and Suburbs: Muhammadian Urban): Sir, I wish to associate myself and the Independent Party with whatever has fallen from the Honourable the Leader of the House in respect of the death of Sir Narasimha Sarma. Sir, I first came to know him when he came to Madras to practise in the High Court there. But he practised there for a very short time and devoted most of his time to politics. Sir, he was a prominent figure in the public life of the country and we all know that, as a Member of the Government of India, he rendered very great services to the country. Sir, I wish to associate my Party with the message of condolence that will be sent to his family.

**Mr. Muhammad Yamin Khan** (Agra Division: Muhammadian Rural): Sir, I knew Sir Narasimha Sarma since 1921 when I came and joined the first Legislative Assembly. I knew that Sir Narasimha was held in great esteem by the Members of both the Houses of the Legislature. I had the honour to sit with him in the other House as well in 1924-25. There I found that all the Members of the Council of State also held him in the same esteem as he was held in the Legislative Assembly. He was one of those Indians who came up as Executive Councillors after the introduction of the first Montagu-Chelmsford Reforms. He was one of the three Indians who were then appointed and he made his mark in the country. I am very sorry for his death, because he was a personal friend of mine. Sir, on behalf of my Party and myself, I associate myself with the motion that has been moved by the Honourable the Leader of the House.

**Mr. Arthur Moore** (Bengal: European): Sir, it was with great regret that I learnt of the death of Sir Narasimha Sarma, a very distinguished servant of his country. I remember him well as a courteous and gentle statesman; and in his old age in spite of his advancing years he went on serving his country and he died in harness. Sir, I support the motion moved.

**Mr. B. Sitaramaraju** (Ganjam *cum* Vizagapatam: Non-Muhammadian Rural): Sir, the late Sir Narasimha Sarma was a resident of the same place where I come from. He was a distinguished son of Andhradesa and I have known him both as a personal friend and one of the greatest men amongst our fellow countrymen. His career was a remarkable one. He started life as a very destitute student and struggled throughout his life against heavy odds with an ability which refused to recognise any

limitations and with a courage which would not be cowed down either by favours or frowns of the Government or the public. Whatever he considered right, he did. Sir, he started his life as a destitute student, then as a teacher on a few rupees a month struggling for the existence of life, and, later on, when his abilities came into play, he became a successful advocate first of the Bar to which I have the honour to belong and afterwards of the Bar of the High Court. Finally, as a politician and as an administrator, he showed remarkable abilities of head and heart. Sir, a few days ago, when I saw him off at the Delhi Railway Station, I did not realise that I was seeing him for the last time. His notable contribution to the Madras Legislative Council was during the debate of the State's Lands Act and, subsequently, he made a great mark in the Imperial Legislative Council particularly in relation to the economic topics and commercial subjects where he showed profound knowledge. Government recognised his abilities and appointed him as one of its Executive Councillors which duty he discharged with great ability and success. So much so that the *ex-Viceroy*, Lord Reading, found that his connection with the Government should not cease and he was appointed as the first President of the Rates Advisory Committee, which office he held until his death. Sir, I associate myself with the motion.

**Mr. C. S. Ranga Iyer** (Rohilkund and Kumaon Divisions: Non-Muhammadan Rural): Sir, my friend, Mr. Shanmukham Chetty, in my absence, has already associated my Party with what it feels in regard to the passing away of one of our great public men. Sir, I remember the day when Mr. Sarma as he then was, and myself were members of the Indian National Congress. It was the great Amritsar Congress over which the late Pandit Motilal Nehru presided when Sir Narasimha Sarma came to the platform to oppose the resolution which was then moved by the editor of *The Independent*, Mr. Syed Hussain, urging the recall of Lord Chelmsford as the Viceroy of India owing to certain ugly happenings in the Punjab. It was a big surging crowd before which he had to speak. I do not remember any single session of the Congress which had collected such a large number of delegates. That Congress was held in the neighbourhood of the Jallianwala Bagh. Mr. (then) Sarma came to the platform and faced—I should say took up arms—against a surging sea of opposition, on behalf of the Viceroy and explained to the delegates how the Viceroy should not be held responsible when he had to carry on the King's Government. That required some courage. In those days when it was very easy to become popular, it required some courage to come to the platform and face several hundreds, nay several thousands, of delegates and tell them what was most unpleasant to them. Such a man was destined to go very far. Courage was the great characteristic of the public life of Sir Narasimha Sarma. He loved to enjoy what Manu called "the immortality of censure". Such a public man cannot die, for his virtue must live and the spirit that animated him will animate those who emulate him—his great courage—a noble feature in the public life of a country. Sir, I express my sympathies for the bereaved family of Sir Narasimha Sarma.

**Mr. K. Ahmed** (Rajshahi Division: Muhammadan Rural): Sir, I rise to support the motion of the Honourable the Leader of the Independent Party on the mournful death of the late Sir Narasimha Sarma, who was a very able man in politics. He was an elected Member of the old

[Mr. K. Ahmed.]

Imperial Legislative Council and he had the confidence of the people of his country. He served the old Imperial Legislative Council for many years. He came from the district of Vizagapatam where he practised in the law Courts for many years after which he went to the High Court of Madras. Soon after that, he was appointed a Member of the Executive Council of His Excellency Lord Chelmsford. At that time there was a great commotion in the country about the Jallianwala Bagh. I think it was in the year 1919 when about 19 Members of the old Imperial Legislative Council, of which you, Sir, were also a Member, tendered their resignations to His Excellency Lord Chelmsford as a protest on that happening. Mr. Sarma (as he then was) considered that there must have been some blunder committed over that incident, and he was a right thinking man; he considered the question and he thought that one could get better things from the topmost officer, the topmost man in the Government; and instead of running him down along with the overwhelming agitation in the country, he came out and thought he would support his Government and get something better for the benefit of the country out of him, which he did. He came to the Executive Council and since then things gradually and slowly became better. Conditions improved and many of those 19 Members who tendered their resignation came back in the year 1921 and some of them joined the Assembly in the year 1924, the second reformed Assembly, and things were getting on all right.

Sir Narasimha Sarma was a great politician. He was in charge of the portfolio of Education, Health and Lands; for a short time he was also in charge of the Industries and Labour Department. I think it was in the year 1921 when I was taking a leading part on the question of labour and industry that I had many things to do with him, as will appear from the debates of the Assembly. The great leader who has served the country and the Government is a victim of cruel death that has swept him away from our midst. Only a short time ago—I think last year, the end of 1931 or thereabout—he was feeling unwell and he went to Switzerland, America and many other countries where he was advised to go for a change. He recouped his health and was feeling better when he came back to this country and I met him in Calcutta and found him much better; but he fell a victim again to the same disease and he had to postpone his official duties and go back to his own district of Vizagapatam and stay there for a short time. Cruel death came all on a sudden and snatched away a great patriot of the country. We are feeling today without him very poor. He was really a very good man, a sincere and broadminded man, slow but sure of achievement. I agree with the Leader of the House and I join hands with the other Leaders of Parties and my friends who have expressed their sorrow at the sad demise of Sir Narasimha Sarma. I support the motion that an expression of sorrow at the death of Sir Narasimha Sarma should be sent to his family.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The Chair wishes to associate itself with all that has fallen from Honourable Members in regard to the loss which the country has sustained by the demise of Sir Narasimha Sarma. The general elections of 1916 brought to the Imperial Legislative Council two new Members; they were Sir Narasimha Sarma and Mr. Sastri, two men who started their career in all-India matters at the headquarters of the Government of India and proved

very distinguished sons of their motherland. Mr. Sarma, as he then was, immediately took an active interest in the work of the Imperial Legislature and made a mark at the very first Session of the Council. After ably serving as a Member of the Executive Council of the Viceroy he devoted his energies in directions which did not keep him before the public eye, but none the less his services were of great value and importance to his country. Gentlemen, the Chair will carry out the wishes of the House and communicate to the relatives of the deceased the sympathy and sorrow of this House.

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### THE INDIAN TARIFF (OTTAWA TRADE AGREEMENT) AMENDMENT BILL.

#### PRESENTATION OF THE REPORT OF THE SELECT COMMITTEE.

**The Honourable Sir Joseph Bhore** (Member for Commerce and Railways): Sir, I beg to present the Report of the Select Committee on the Bill further to amend the Indian Tariff Act, 1894, for certain purposes.

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### THE INDIAN MERCHANT SHIPPING (SECOND AMENDMENT) BILL.

**The Honourable Sir Joseph Bhore** (Member for Commerce and Railways): Sir, I beg to move for leave to introduce a Bill further to amend the Indian Merchant Shipping Act, 1923, for certain purposes. This, I hope, is a non-contentious measure and I have nothing to add at this stage to the statement of objects and reasons.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That leave be granted to introduce a Bill further to amend the Indian Merchant Shipping Act, 1923, for certain purposes."

The motion was adopted.

**The Honourable Sir Joseph Bhore**: Sir, I introduce the Bill.

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### THE AUXILIARY FORCE (AMENDMENT) BILL.

**Mr. G. R. F. Tottenham** (Army Secretary): Sir, I beg to move for leave to introduce a Bill further to amend the Auxiliary Force Act, 1920, for certain purposes.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That leave be granted to introduce a Bill further to amend the Auxiliary Force Act, 1920, for certain purposes."

The motion was adopted.

**Mr. G. R. F. Tottenham**: Sir, I introduce the Bill.

**THE BENGAL SUPPRESSION OF TERRORIST OUTRAGES  
(SUPPLEMENTARY) BILL—contd.**

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Further  
12 Noon. consideration of the motion for consideration of the Bill to  
supplement the Bengal Suppression of Terrorist Outrages Act.

**Mr. S. C. Sen** (Bengal National Chamber of Commerce: Indian Commerce): I rise to a point of order.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): There are amendments which have to be moved . . . .

**Mr. S. C. Sen**: Before the amendments are taken, I rise to a point of order. On the last occasion you will remember, Sir, that the direction which you gave was to this effect:

"The Chair proposes to leave it to the Honourable the Law Member to consider in what form he proposes to re-draft the clause. As the clause stands at present, it does apply to section 107 of the Government of India Act and so far as it applies to that section, it is out of order."

Therefore, Sir, it is incumbent upon the Honourable the Law Member to put before this House an amended and re-drafted clause as directed by you. Instead of re-drafting the clause, he has merely submitted three alternative amendments. He must stick to one of them and he will have to re-draft the clause in the light of the amendments which he intends to propose. Your ruling will be found in Volume VI, No. 5, of the Official Debates of the 14th November at page 2046. You wanted the Honourable the Law Member to consider in what form he proposed to re-draft the clause. Therefore, the clause must be re-drafted and not that he should throw on us three alternative amendments to choose from. He must stick to one of the amendments and he must introduce that amendment in the body of the clause before the Bill can be taken up. That is my point.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member must realise that a clause can be re-drafted by means of amendments. Can it not be done?

**Mr. S. C. Sen**: Yes, certainly.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): That is exactly what the Honourable the Law Member proposes to do.

**Mr. S. C. Sen**: There are three alternatives. He must stick to one of them.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Quite so. The Honourable the Law Member proposes to give option to the House to accept such re-draft of the clause as may appeal to them. What is wrong in it? The Chair rules that the motion is quite in order, and when clause 5 comes up, it will be in the discretion of the House to decide in what manner they will amend the clause to meet the ruling given.

**Mr. Amar Nath Dutt** (Burdwan Division: Non-Muhammadan Rural): On a point of information, Sir. May I know whether we are considering the Bill as introduced and which we have been asked to consider or we are considering the amendments also along with the Bill.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): I do not know whether the Honourable Member was present when the ruling was given. If he had been present, he would have known that the Chair at the initial stage, when the point of order was raised, pointed out that the proper time for raising the point of order was when clause 5 was under the consideration of the House. It was suggested that much of the debate might be curtailed if the ruling was given then, and, as a special case, the Chair agreed with the consent of the House to give its ruling then. The ruling was given, and Government have now offered four alternatives to the House with a view to amend the clause. When the clause is reached, the House will decide in what form it should be amended to meet the ruling. The motion at present is for the consideration of the Bill. If the House rejects that motion, no points of order can arise.

(At this stage Diwan Bahadur Harbilas Sarda rose in his seat.):

Is it another point of order?

**Diwan Bahadur Harbilas Sarda** (Ajmer-Merwara: General): No, Sir; I want some explanation.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): I do not think we can pursue this subject any further. The point is perfectly clear, and the Chair has made it clear. As a special case, the ruling was given at a stage when it was not necessary to do so. When clause 5 comes up for consideration, all fresh points of order can be raised, but so far as the motion before the House is concerned, namely, to proceed with the consideration of the Bill, it is perfectly in order, and the House will have now to consider it. If the House rejects the motion for consideration no further trouble arises. If the House passes the motion and clause 5 is reached, Honourable Members will be entitled to raise points of order and the Chair will be glad to give any further information which may be necessary.

**Mr. Amar Nath Dutt**: Our objection is that the Bill exceeds our statutory power.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Order, order: The Honourable Member should have read the proceedings of the House when the point was dealt with. The Chair does not propose to hear anything further on the subject.

**Pandit Satyendra Nath Sen** (Presidency Division: Non-Muhammadan Rural): Are we now on the consideration motion, Sir?

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Yes, and the Chair calls upon Mr. Mitra to move his amendment.



**Pandit Satyendra Nath Sen:** I rise to a point of order, Sir. My point is that there can be no further consideration of the Bill as it is, *i.e.*, without the amendment being incorporated into the Bill.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Order, order: The Chair has clearly explained the procedure.

**Pandit Satyendra Nath Sen:** I shall make my point clear, Sir.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The point has already been dealt with.

**Pandit Satyendra Nath Sen:** I have another point. This is a Bill which contains a clause which has been declared by the Chair as *ultra vires* of this Legislature. In obedience to the Chair's ruling, Government have agreed to propose an amendment in order to make up that defect. That amendment is not yet a part and parcel of the Bill. Suppose the motion for circulation by my friend, Mr. Mitra, or my motion which comes next is passed, then what is the thing that will be sent out for circulation?—This Bill without the amendment is an incomplete thing and is out of order, and the brain of the public will be taxed for nothing on a wrong thing. Then, again, suppose this motion or the next motion or some of the following motions are lost, and the Bill is taken up for consideration clause by clause. When clause 5 is taken up, if the amendment of the Government fails,—there may be some reactionary Members on this side who may take it into their head to oppose that motion, and if they vote against that motion—there may not be sufficient Members of Government present here then, and if the motion is lost, what will be the effect? Clause 5 will be passed. What will be the position then? A thing which is quite out of order will be passed.

**Sir Muhammad Yakub** (Rohilkund and Kumaon Divisions: Muhammadan Rural): That is impossible according to the ruling of the Chair.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The whole trouble arises because the House asked the Chair, in spite of the warning given to deal with the point of order on an inopportune occasion. If the point of order had not been dealt with then, these difficulties would not have arisen. With regard to the point the Honourable Member has made the Chair wishes to state that in the event of the House accepting the motion for circulation, care will be taken to circulate with the Bill the ruling of the Chair *in extenso*, so that those people who will be asked to express their opinion will know what the ruling of the Chair is and what amendment will have to be made in the Bill before it will be considered again by the House. The difficulty has arisen, because Honourable Members wished for a ruling on an inopportune occasion, and the best thing that can be done in these circumstances is that if the circulation motion is carried, the ruling of the Chair and the proposed amendments to meet it will also be circulated.

**Mr. S. C. Mitra** (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): Sir, I move:

“That the Bill be circulated for the purpose of eliciting opinion of the various High Courts in India by the end of December, 1932.”

I move this motion not with any intention of dilatoriness, because even the Government first intended to take up this measure in the winter Session, and this is only an emergency Session for the purpose of two very important Bills. Before the next winter Session, the House will be in a position to ascertain the views of the various High Courts whose right is being attempted to be curtailed by this piece of legislation. The Honourable the Home Member made it perfectly clear in his speech what was the purpose of this Bill. I quote his exact words. He said:

"We propose that just as the Bengal Act has removed the jurisdiction of the lower Courts, so we should remove the jurisdiction in this matter of the High Courts."

He has not tried to take shelter under any legal phraseology, but he made it perfectly clear. Later on, he says:

"The last provision is contained in clause 5 of the Bill and provides for exclusion of interference of Courts with the proceedings in the Courts of Special Magistrates. In other words, the High Court will not have power to entertain applications in revision."

Though latterly the Honourable the Leader of the House (the Law Member) explained that the High Court's jurisdiction would not be interfered with at least under section 107. But the Honourable the Home Member made it perfectly clear that his purpose in bringing up this legislation was to oust the jurisdiction of the High Court in every possible way.

I do not like to go into details about the terrorist crimes and thus cloud the issue. It is accepted by all in this House that terrorism should be put a stop to by whatever means possible. Times without number we have said that there will be nobody found in this House to support any policy in which opinion is forced on people at the point of the bayonet. The further point that has also been agreed to is that a speedy trial is desirable. We do not join issue on that point also. But the object of this Bill is to curtail appeals and the power of supervision of the High Court . . . .

**The Honourable Sir Brojendra Mitter (Law Member):** Not appeals.

**Mr. S. C. Mitra:** The Honourable the Law Member does not agree, but I should like to read the three clauses of the Bill which are the only effective clauses. The first clause is clause 3 where it is said that appeals will lie in the city of Calcutta to the High Court against a sentence of a Special Magistrate, and anywhere else in Bengal where the sentence is more than two years transportation, or that of imprisonment for more than four years, an appeal will lie to the High Court. Clause 4 deals with section 19 of the Bengal Act. Section 19 says:

"Except as provided in this Chapter, no proceeding or order purporting to be taken or made under this Chapter shall be called in question by any Court and no civil or criminal proceedings shall be instituted against any person for anything in good faith done or intended to be done under this Chapter."

On a previous occasion I said that this section was worse than martial law, because a bill of indemnity was also included in the clause itself. The third effective clause is clause 5 which says that except as provided in the Act all suits in civil and criminal Courts and appeals are barred. Under all these three clauses, there is nothing against speedy trial. The

[Mr. S. C. Mitra.]

man who has been found to be a terrorist has been tried and judgment of the Court has been given. When the man is already clapped in jail, what is the necessity for the Government to deny him the chances of an appeal? I do not say that the terrorist should not be dealt with drastically and speedily. But, in the hurry of the thing, a non-terrorist may be included and I ask, why he should not have a chance of getting out of the clutches of such drastic laws by an appeal to the Sessions Judge or the High Court.

Since the advent of British rule in India, Indians have highly valued the British Courts of justice. I think if a choice be given between the so-called constitutional programme that is being hatched in London by the R. T. C. and the separation of judicial and executive functions, I think there will be more people preferring the complete separation of the judiciary from the executive control to the so-called progress in reforms. It is not only the agitators that have been fighting for the freedom of the judiciary; it is not only the Indian National Congress that has fought for it for the last 40 years or more; but Liberals and Moderates have all along clamoured for the reform, because British justice is being made fruitless on account of the control of the executive over the judiciary.

I do not propose to argue the constitutional point that has been accepted from the time of Montesquexue, the great political philosopher of France, who said that the three functions of judicial, legislative and the executive should be separate and independent. Unfortunately in India we had no Legislature in the beginning of British rule, and even now there is only a nominal Legislature which is neither separate nor independent of the executive. But we had our Supreme Courts then. They maintained zealously the independence of the Courts of law against executive vagaries. Government also accepted times without number that the separation was essentially necessary, but they pleaded financial stringency. As regards financial considerations, this is what Professor Gilchrist says:

"One reason is financial, but to that I pay no heed, as ways and means can be found if the Government make up its mind to change the system. Financial considerations have never stood, and will never stand in the way of remedy to abuses, provided the abuses are regarded as of sufficient enormity to divert public funds from other channels. In matters of this kind, financially speaking, usually where there is a will there is also a way. Were it a mere matter of finance, the question could at least be solved gradually."

So he goes on. We all know after the acceptance of the principle of separation of judicial and executive functions, we have had this splendid Imperial City costing crores of rupees, we have had schemes like the Back Bay Scheme, Strategic Railways, Meerut Conspiracy Case, and so on to waste public fund. We can do all that, but financial reasons come in the way of carrying out the separation of judicial and executive functions. The little liberty that the judiciary have is a general power of supervision by the High Court. I do not like to enter into other issues, but this Bill is called the Suppression of Terrorists Bill. I have carefully read the sections of the Bengal Bill, but no word is said there about the terrorists. I say that the clauses are framed so loosely and so widely that it may cause trouble to any kind of people. We all accept that terrorism should be put a stop to, but in that connection let not innocent men suffer. Let them have, even after a speedy trial by a Special Court, the rights of appeal to the Sessions Court and the High Courts. That is all we want. Much

has been made about the fact that the High Court of Bombay have held that the powers under section 107 of general supervision will not be interfered with, but the decision of the Bombay High Court is not binding on other Presidency High Courts.

**The Honourable Sir Brojendra Mitter:** The Calcutta High Court has held the same.

**Mr. S. O. Mitra:** That might not be the interpretation of other High Courts.

**The Honourable Sir Brojendra Mitter:** May I point out to the Honourable Member that we are dealing with the Calcutta High Court only and not with other High Courts?

**Mr. S. O. Mitra:** I am dealing with the general principle as other High Courts might have also to deal with this question under the Ordinances as was evidenced in the Bombay case. As regards the Bombay case, I should like to put before the House the opinion of an *ex-Advocate General* of Madras, Mr. Venkatarama Sastri.

Speaking of the Bombay decision, he says:

"The schedule to the Government of India Act did not include section 107 of the Act among the sections which the Indian Legislature was authorised to repeal or alter. The result was that Ordinances, just like any other law of the Indian Legislature, could not touch the power of the High Court under section 107."

Later on he says:

"The Chief Justice, in language at once emphatic and restrained, stated that 'it would be very unfortunate if the High Court had no power to correct any irregularity or illegality into which any of these Special Tribunals may fall' and 'he was glad to arrive at the conclusion that the High Court had the power'. Confirmation of this same view comes from the Sind Commissioner's Court. While holding that they had no jurisdiction to interfere and are expressing no opinion on the cases before them by way of confirmation or approval, they said 'Extraordinary and extensive powers have been conferred on a large body of Magistrates, and our experience leads us to suppose that powers of this kind cannot safely be exercised without some sort of supervision. .... Judges are human and are of diverse temperaments. Different temperaments react differently to the facts of particular cases. In ordinary times the tendency of the High Court is to act as a bulwark of people's rights against executive excesses. But where a state of emergency is declared and Ordinances are passed to meet its requirements and for the peace and good government of the country, one attitude is to be cautious and to feel that there might be grave public risk in interfering with the action of one who is conversant with the local needs of law and order; another attitude of mind is to realise the hardships inflicted and the need for relieving them in order to obviate the risks and dangers arising from non-interference even in extreme cases'."

Then he says:

"Orders to report oneself thrice a day or to report oneself at times and places practically impossible so as to make the person inevitably incur penalties are cases for interference rather than for cautious non-interference. They may justly be described as gross misuse of the power conferred by the Ordinances in a wholly unintended manner."

I should like to show how these drastic provisions are likely to be abused and why this House should be very cautious before they agree to curtail the powers of appeal to the High Court. The Honourable the Home Member, in one of his speeches, referred to the Pahartali and other cases. They are not strictly relevant to this matter; but what are the laws that

[Mr. S. C. Mitra.]

have been applied now to Chittagong? Under section 15, a collective fine has been imposed on all Hindu population to the extent of Rs. 80,000 in spite of all protests, and Government did not see their way to mitigate the cruel enforcement of these laws in any way. I do not see how a man becomes an offender by the mere fact that he says his prayers facing towards the East and not facing to the West. One can understand the criminality of a tribe, but here the discrimination is made between two sets of people living in the same town differing only in their professions of religious faith. That is how this law is administered. If anybody is to be punished in the town of Chittagong, it is the military and the police for whom Government have already incurred an expenditure to the extent of 15 lakhs of rupees in the last few months. It is the inefficient police, who have failed to find out the culprits, who ought to be fined; instead of that, everybody who calls himself a Hindu, be he a boy or an old man, male or female, rich or poor, has been punished by this law. This is the logic Government has come to. It is exactly for this reason, namely, that the judiciary is under the control of the executive, that the powers of the High Court should be jealously guarded and maintained by this House.

The same kind of punishment is meted out in different parts of the country and there is a lurking suspicion that executive orders are being given as to how people should be punished. No one is free. I do not know for certain, but the apprehension is general that the judiciary in this country are controlled by the executive and the only way to ensure justice is that the independence of the Courts of Justice should be maintained and the power of the High Courts should not be curtailed in anyway. Sir, I move that the Bill be circulated for the opinion of the chartered High Courts.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Amendment moved:

"That the Bill be circulated for the purpose of eliciting opinion of the various High Courts in India by the end of December, 1932."

**Mr. S. C. Sen:** Sir, the motion is that the opinions should be obtained before the 31st December, 1932. We are now today on the 12th of December. The Calcutta High Court, which is most concerned in this matter, will close, I believe, on the 21st of December and will remain closed up to the 3rd of January. So, what practical result would be obtained by the circulation of this Bill to the Calcutta High Court, I do not know. But, Sir, I wish to say something on the merits of this Bill. Sir, we know that there is a terrorist movement in Bengal. We know that the Government have been trying to cope with this movement for the last 27 years. We also know that Government have taken various steps to eradicate this evil. But with what success? Sir, the position now is . . .

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): I should like to draw the attention of Honourable Members to the fact that as there are other amendments for circulation, the best procedure will be to have all these amendments before the House and to discuss them together. I would, therefore, call upon Pandit Satvendra Nath Sen to move his amendment, and I will call Mr. S. C. Sen to address the House again at the proper time.

**Pandit Satyendra Nath Sen:** Sir, I move:

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 31st of January, 1933."

Sir, my friend, Mr. Mitra, has moved his motion for eliciting the opinion of the High Courts only. What I want is that not only the High Courts, but also other Courts as well as Bar Libraries, etc., should be consulted, because this is an extraordinary Bill inasmuch as it seeks to suspend and supplement the ordinary law materially.

Sir, at first sight I thought that this little Bill would be disposed of in five minutes' time, because no right-thinking man would have any sympathy with terrorism. But, Sir, the more I dive into the matter, the more I feel that I am out of my depth. Sir, clauses have been put in a mystic form like the Delphic oracle in explaining which there was a material discrepancy between the statements of the Honourable the Home Member and of the Honourable the Law Member. Sir, the Honourable the Home Member said that "we should remove the jurisdiction, in this matter, of the High Court", while the Honourable the Law Member said that "the powers of superintendence of the High Courts under section 107 of the Government of India Act will remain unaffected". Now, in obedience to the ruling of the Chair, the Government are now prepared to move an amendment. That will take some of the poison out of the objectionable clauses, but still much of the poison remains, and if these objectionable portions are deleted, I would not insist on my motion for circulation.

Sir, from my orthodox culture, I am opposed to terrorism, but I am opposed to terrorism not only when it comes from the people, but also when it comes from the Government, because although we are anxious to stamp out terrorism from the country, that does not imply that the accused persons will not be given a fair trial. Sir, the Government smell terrorism everywhere in Bengal. In fact they hold that every Bengali boy is a potential terrorist or "a lurking assassin" in the language of the Honourable the Home Member. Now, the Government have so long been indulging in terrorism in deeds only and now they want to commit acts of terrorism in trials also, because this Bill implies a denial of justice to accused persons. Sir, what will be the effects of these clauses 4 and 5? They seek to bar the jurisdiction of even the highest Court of justice; appeals and revisions obtainable under ordinary law are sought to be dispensed with; the *Habeas Corpus*, which ensures one of the elementary rights of a British subject, is to be made inactive. And why all this—only for the purpose of giving us speedy trial? Sir, the speed of British law or rather the absence of speed of British law and, I may say, of British justice, which moves at a snail's pace, is a notorious thing. Sir, in some cases we feel that substantial justice, dispensed expeditiously, as it used to be dispensed in the days of old by the Kazis under Muhammadan rule, is a desideratum. Sir, in some civil cases the finality is reached after some decades. Some of the political prosecutions also are allowed to drag on for years, and no attempt is made to improve the condition in those cases. Now that it suits the purpose of Government, they have come forward to favour us with speedy trial which may not be synonymous with speedy justice. And, in effecting this speedy trial, whom are they going to rely upon? On the District Magistrate, a term, which, for the purposes of this Bill, includes the S. P. and the D. S. P. Sir, we

[Pandit Satyendra Nath Sen.]

have reasons to believe that the Act will be misapplied in Bengal. It does not behove us, therefore, to give ditto to the Act as a matter of form and to strengthen it by a supplementary Bill equally severe in its character. Sir, the Bengal Act arms the Government with unlimited powers. They can now take possession of our immoveable property, they can take possession of our moveable property, they have the power to regulate our means of transport, and so on and so forth. And who is to apply this law? Sometimes a half-educated S. P. who is practically the *de facto* District Officer in the mufassil. Sir, although this Bill is very small in size, I think it is much more severe than the big Ordinance Bill which was passed, in this House the other day—not as the result of a fair fight as the Honourable the Home Member put it, but as the result of an unfair fight, because we all know our position and strength in this House. Sir, the Government of Bengal are following a wrong course of treatment. That treatment will only heal up the wound superficially, leaving the sore within as it is, or it may even worsen the condition; it may lead to sinus. We should, therefore, study and examine the case more carefully and determine the best remedy for it.

The Honourable the Home Member quoted the other day some passages from some revolutionary literature. But is there any guarantee that those documents are genuine? The activities of the C. I. D. and the police are a notorious thing in this country. The Honourable Member certainly relied on those two bodies and who does not know what those two bodies are up to. Sir, I shall cite only a simple case which appeared in the *Hindustan Times* of the 9th September this year. This is a report from Lahore:

"In the Kanari Bazar Dacoity Case, Mohinder Singh, son of Bawa Jhanda Singh, a Magistrate, made serious allegations of beating and threats against the police, because of his non-compliance with the alleged police request to give evidences of the nature desired by them. He alleged that the police wanted him to depose that he provided Sardar Dilawar Singh, Municipal Commissioner, who also was arrested and discharged in the same connection, with a revolver for the purpose of the dacoity, threats being held out that his father and uncle might lose their jobs due to his recalcitrance."

**Mr. K. Ahmed** (Rajshahi Division: Muhammadan Rural): This is the Bengal Suppression of Terrorist Outrages Bill.

**Pandit Satyendra Nath Sen:** This only illustrates the activities of the police on which the Honourable the Home Member apparently relied in respect of those passages.

**Mr. K. Ahmed:** But this is 800 miles away from Bengal.

**Pandit Satyendra Nath Sen:** But the C. I. D. people are everywhere. Sir, in his speech on the last occasion, the Honourable the Home Member made the most of the Pahartali outrage, but he studiously avoided any special reference to the Chittagong riots. The Pahartali outrage was no doubt a very lamentable occurrence, but I think it was attended with very few casualties. (*A Voice:* "There was one death.")

**The Honourable Mr. H. G. Haig** (Home Member): Is death not a casualty in the opinion of the Honourable Member?

**An Honourable Member:** An old European lady died.

**Pandit Satyendra Nath Sen:** I stand corrected that there was a casualty.

**The Honourable Mr. H. G. Haig:** No, Sir, there were a great number of casualties. About 10 people were injured and one killed.

**Pandit Satyendra Nath Sen:** Very well, I stand corrected. But in the case of Chittagong the violence was perpetrated on the entire Hindu community and I think those acts of violence and terrorism were responsible for these revolutionary views. (*A Voice:* "Were there any casualties?") Certainly, there were. I will give you some illustrations and show how terrorism was perpetrated. Here is an extract from the report of the non-official inquiry into Chittagong riots. Let us see what it says:

"The night of Sunday, the 30th August, was a night of terror in Chittagong. The principal feature of the terror was that the assailants were alleged to be members of the police force, the armed police, Gurkhas and Europeans. They particularly attacked the houses of those who had incurred the displeasure of the local authorities, including political suspects, pleaders who are engaged in the defence of persons accused in the Chittagong Armoury Raid Case, and the men employed in at least one well-known printing press."

Sir, be it said to the credit of the cultured Muhammadans of Chittagong that they had no sympathy with this outrage. The report goes on to say:

"Mr. Nur Ahmed (a respectable Muhammadan citizen and the Chairman of the local Municipality) himself spoke to the District Magistrate about the seriousness of the situation. Referring to subsequent events, he told us: 'During the occurrence I noticed European sergeants smiling and very glad.'"

Then the report goes on to say:

"According to shop-keeper Umesh Chandra Pal's evidence, a Sahib (European) was telling the looters: 'Take away quickly; there is not very much time.' Even when the police were shown people openly carrying away stolen goods, they refused to assist in their recovery. On the contrary, there is evidence that the police helped them to escape."

Sir, even the ladies were not spared by these police hooligans. The report goes on to say:

"The most pitiful evidence came from the daughter of Sreejut Bipin Behari Sen, whose house had been raided also about mid-night. After the first search of the house, the police took away her two brothers. Three Gurkhas returned again, forced her father to open the door and entered the house on the pretence of a further search. While one or more of the Gurkhas prevented the father from coming to her aid, other Gurkhas attacked her and subjected her to a brutal and cowardly assault. (*I want to know whether this is a casualty or not?*) When she attempted to cry out, they gagged her. Her father too was struck, when he made a desperate attempt to protect her; when he was overpowered and his nose began to bleed, the Gurkhas renewed their assault on her."

**The Honourable Mr. H. G. Haig:** What is the authority for this?

**Pandit Satyendra Nath Sen:** This is the report of a non-official and impartial body.

**The Honourable Mr. H. G. Haig:** Has any complaint been made in Court?



**Pandit Satyendra Nath Sen:** It has not yet been contradicted by anybody, I believe.

**The Honourable Mr. H. G. Haig:** It has not yet been put before a Court.

**Pandit Satyendra Nath Sen:** Sir, I will not quote any more passages from this report. I would only like to remind the Honourable the Home Member that terrorism begets terrorism. This may not be very pleasing to the ears of the Government, but if experience has got any value, they should accept the view that terrorism is not the proper remedy for stamping out terrorism. If this was the conduct of Government, no wonder some misguided youths would go wrong, and it is their own mistakes that make the matters worse. Sir, they want to legalise those acts of violence by the passing of these lawless laws.

And what do they do next? They have gagged the Press which is practically the mouth of the public and the disastrous consequence comes as a matter of course. If the mouth is gagged, the excitement must find its expression in other ways. When the heart is full with feeling, it must be allowed to be emptied, otherwise the whole system will be deranged. Chittagong is regarded by the Government as the hotbed of terrorism. Even without this Act, it was possible for Government to carry on a vendetta on the entire Hindu population; and, by way of adding insult to injury, they have imposed a collective punitive-tax of Rs. 80,000 on the Hindu population.

I would tell my Muhammadan friends that this terrorism on the part of Government has a tendency to spread to Muhammadans also. It was only the other day that my Honourable friend, Mr. Abdul Matin Chaudhury, read out a telegram from Chittagong and my friend, Mr. Mitra, also read out the same telegram from Chittagong which says that highhandedness was committed on some Muhammadan families. I should, therefore, request my Muhammadan friends also to combine with the Hindus to see that no terrorism is perpetrated by Government as it is also our duty to see that no terrorism is perpetrated by the people. The next objective of the Government is Midnapore; and what form of terrorism is not being perpetrated there in the name of law? One Phanindra Nath Das was beaten almost to death; the belongings of poor villagers are being snatched away, and even the chastity of females is being violated in a most brutal and vindictive manner. When these things were being narrated the other day by my friend, Mr. Mitra, one of the Nominated Members, Captain Lal Chand, interjected by saying "Is a no-rent campaign going on there?" The Honourable Member evidently wanted to suggest that rent or tax can and should be collected even by violating female modesty . . . .

**The Honourable Mr. H. G. Haig:** May I ask, Sir, whether a discussion of the civil disobedience campaign in Midnapore is relevant to a Bill dealing with the suppression of terrorist crime?

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member is in order for the reason that he is illustrating what the result of these powers will be in regard to the areas where terrorism prevails. (Opposition Cheers.)

**Pandit Satyendra Nath Sen:** I am thankful to the Chair. That is exactly my point.

**Mr. Arthur Moore** (Bengal: European): May I ask whether the Honourable Member is in order in bringing a charge against an Honourable Member who is not in his seat . . . .

**An Honourable Member:** He should be in his seat.

**Mr. Arthur Moore:** . . . . the charge being that he said that a no-rent campaign should be dealt with by outrages against females, and that that is the proper method of dealing with it? I am quite sure that if my Honourable friend, who is not in his seat now, were here, he would repudiate the suggestion that he ever made such a statement.

**An Honourable Member:** Are you holding a power of attorney for him?

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member should remember, as the Chair has repeatedly pointed out, that when an Honourable Member accepts a seat in this House, it is his duty to be present here when important discussions are going on. (Opposition Cheers.) The Honourable Member, not being present here, will be able to publish a contradiction to it in the Press if he wishes to do so. There appears to be no point of order involved, unless the Honourable Member wishes to explain further what the point of order is.

**Mr. Arthur Moore:** May I point out that the implication or gloss that brings such a monstrous suggestion against any Member of this House.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member is not bringing any charge against that Member, as far as the Chair has followed him. The Honourable Member says that certain statements were made by another Honourable Member on a previous occasion on the floor of this House in the course of discussion, and he puts his own interpretation on the implications of that speech. (Opposition Cheers.)

**Mr. Arthur Moore:** May I point out that the implication or gloss that he has put on the Honourable Member's statement is to make an outrageous charge against that Honourable Member?

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): But how is that a point of order?

**Mr. Arthur Moore:** I should have thought that it was out of order to bring such a charge against any Member of this House.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member has not, as far as the Chair has followed him, brought any charge; he has merely stated that this was the implication of what the Honourable Member had said.

**Sir Abdulla-al-Māmūn Suhrawardy** (Burdwan and Presidency Divisions: Muhammadan Rural): That amounts to a charge.

**An Honourable Member:** No, no.

**Mr. Arthur Moore:** May I point out that the Honourable Member has said that the meaning of my Honourable friend, Captain Lal Chand's interruption was that he believed that the proper way to deal with a no-rent agitation was by outraging the modesty of females?

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): No; as far as the Chair has followed him, the Honourable Member never said anything of the kind.

**Mr. Arthur Moore**: May I ask the Honourable Member to make that clear?

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): If he wishes to do so, the Chair will raise no objection.

**Sir Abdulla-al-Mámún Suhrawardy**: On a point of information, Sir. Will the Honourable Member, who is absent and against whom this insinuation is made, be permitted by the Chair to make a personal explanation when he happens to be here?

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member ought to be aware that the Chair has never refused any Honourable Member, who wishes to make a personal explanation, an opportunity to do so.

**Sir Abdulla-al-Mámún Suhrawardy**: At a later stage, I mean, will he be permitted?

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The Chair will consider when the Honourable Member himself attends the House and offers to make a personal explanation.

**Pandit Satyendra Nath Sen**: It is superfluous to make any further remarks on the matter and I leave it at that. The Government are now pursuing a general policy of beating everywhere. By quoting the figures of the civil disobedience prisoners, they now want to prove that the civil disobedience movement is on the wane; but is that the real situation? The real situation is as was given out by Mr. Leonard Matters the other day in London while speaking at a conference on India, namely, that the number of civil disobedience prisoners has decreased because the present policy which is being followed in India is "Do not arrest, but beat". This is particularly true of Bengal. I might remind Honourable Members that one Ajit Bhattacharya, who was beaten to death last year, was an innocent boy who was at the time seeking his admission into the College. Not even a sigh was spent over it by Government. Some months ago, one Anil Kumar Das also died at Dacca under mysterious circumstances. I think, if the Government will not revise their policy of terrorism, if they do not mend their manners, there will be no real improvement in the situation. As I have already said, Government are prejudiced against

**1 P.M.** Bengal, and, therefore, it will not be safe to entrust the people to the sole charge and disposal of a Special Magistrate who is subservient to Government. The Special Magistrate knows the policy of the Government very well, namely, "no conviction, no promotion", and if a Magistrate has the courage of his conviction, if he wants to act according to his own conscience, he will be harassed and perhaps even his promotion will be stopped. We would not have indeed insisted on having very many appeals if the executive and judiciary were separated, but that is a condition which is not yet within sight. Therefore, we should see that justice is done to the accused persons.

This Bill is open to another very serious objection. In the original Bengal Act, there are half a dozen provisos. Suppose any one of them is violated. Who is there to revise the proceedings? Of course, the High

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Court is there, but is it possible for a poor villager to move the High Court at every step? I have already made it clear, and I repeat that if these objectionable clauses, namely, clauses 4 and 5, be deleted, I will not press for circulation, but as Government do not seem to be in a mood to delete those portions, I will move my motion for circulation, but before I resume my seat, I would ask one thing on a point of information. Is there any precedent for circulating a Bill together with any of the amendments, and is the Secretary or anybody else in this House empowered to do so by any rule to that effect?

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Amendment moved: .

"That the Bill be circulated for the purpose of eliciting opinion thereon by the, 31st January, 1933."

**Mr. A. Das** (Benares and Gorakhpur Divisions: Non-Muhammadan Rural): Sir, when I gave my amendment on this Bill, we did not know that any alternative proposals would be put by the Honourable the Law Member. As I read the Bill at that time, I thought. . . .

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Does the Honourable Member wish to move his amendment? .

**Mr. A. Das**: I withdraw certain . . . .!

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member will get a chance to speak on the whole question, if he wishes to do so. At present the Chair desires to know whether the Honourable Member wishes to move the amendment that stands in his name?

**Mr. A. Das**: No, Sir, I do not wish to move my amendment.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The original motion and the two amendments, one moved by Mr. Mitra and the other moved by Mr. Sen, are now before the House.

**Mr. S. C. Sen**: As I said before, I consider that these amendments for circulation will be of no use. If they are circulated in different parts of the country, even then I do not know if that will be of much assistance, because what have we got here? Only four provisions, two of which must be admitted, and the other two may be controverted. The original Bengal Act is not before us, and, therefore, no opinion can be had on the provisions of the Act. Under these circumstances, when we are going to have two provisions which are really in favour of the accused, namely, their right to appeal to the High Court, I do not see that any object will be gained by the motion for circulation. As I said before, we do not deny the existence of a movement in this country which the Government call as the terrorist movement, although I know that the word "terrorist" has not been defined anywhere except by the Bengal Government in certain rules which they framed under the powers conferred upon them by the Ordinance itself. We also agree that the terrorist movement is a menace to the country and should be extirpated or suppressed, and we also agree that the Government should have such powers to deal with the movement as it considers necessary, expedient and proper, but at the same time we also want to see that the powers which the Government get and which they have got so long for the last 27 years should be exercised properly.

[Mr. S. C. Sen.]<sup>†</sup>

Sir, the terrorist movement is not new to us. It made its appearance for the first time in Bengal in the year 1906, shortly after what is known as the Partition of Bengal. It was understood then that the Partition of Bengal, although ostensibly made for the purpose of administrative convenience, was really brought about for the purpose of curbing the political power of the Bengal Hindus, for the purpose of suppressing their political activities and also for the purpose of . . . .

**An Honourable Member:** Are we discussing the Partition of Bengal?

**Mr. S. C. Sen:** Yes, we are, and also for the purpose of creating differences between the Hindus and Muslims of Bengal. The Rowlatt Committee held that in Bengal it was frequently asserted and sometimes believed that Government were setting the Muhammadans against the Hindus, and this belief was, to a certain extent, confirmed in the minds of the Hindu population by the attitude which the then Lieut.-Governor of the new Province took by his theory of "my favourite wife". Those who are acquainted with the disturbances during the Partition of Bengal knew what that expression meant, and people knew how and why the activities of the terrorist movement came into existence. It was felt that there was not the same impartial judgment and the same impartial justice administered to the different communities in Bengal as was expected under Her Majesty Queen Victoria's Proclamation. Let us see what steps Government have taken during all these 25 years for suppressing this terrorist movement.

In 1906, as I said, the terrorist movement or rather the terrorists first appeared. It was dealt with under Regulation III of 1818 at first. That was not the first time that I came to know of the existence of such a Regulation, because, if I remember rightly, that Regulation was used by Lord Dufferin when Prince Dalip Singh wanted to come out to India and he was arrested at Aden under that Regulation. That was the first time we heard of the existence of such a Regulation, and, subsequently, about 30 years later, we came to know of its existence. In 1908, however, the Government enacted three Acts for the purpose of suppressing this movement,—the Explosive Substances Act, the Newspaper Incitement to Violence Act, and the Criminal Law Amendment Act which is still in existence with the exception of one Chapter. In 1910, they enacted the Indian Press Act, which is still serving as a precedent for the recent Press laws of the country as amended the other day by the Ordinance Bill. In 1911, the Seditious Meetings Act was also passed for the purpose of suppressing this identical movement, but the movement did not die. Then it continued to be dealt with under these Acts in conjunction with Regulation III of 1818. Then the Great War came, and, along with it, the Defence of India Act was passed and certain rules were framed thereunder. The rules were applied for the purpose of suppressing this movement, but how that was done is beyond my comprehension, because, as I read the Defence of India Act, it related to foreigners and others and also to matters connected with the Military. For the information of this House, I will read rule 3, which says :

"Where, in the opinion of the Local Government, there are reasonable grounds for believing that any person has acted, is acting, or is about to act in a manner

prejudicial to the public safety or the defence of India, the Local Government may, by order in writing, direct that such person—

- (a) shall not enter, reside or remain in any area specified in the order;
- (b) shall reside or remain in any area in British India so specified;
- (c) shall conduct himself in such manner or abstain from such acts or take such order with any property in his possession or under his control as may be specified in such order."

There is no direction that he can be restrained and kept in jail for an indefinite period. Rule 12A of the rules under which the Rowlatt Commissioners said that these persons were dealt with provides thus:

"Any officer of Government, authorised in this behalf by a general or special order of the Local Government, may arrest without warrant any person against whom a reasonable suspicion exists that he has acted, is acting, or is about to act with intent to assist the King's enemies in a manner prejudicial to the public safety or the defence of British India,".....

Then certain consequences will follow.

Were these persons, who were arrested under these rules, concerned with any activities to assist the King's enemies? However, Sir, that is a long story. 1,029 persons were arrested between June 1916 and June 1918.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Order, order. The Chair would like to know the object with which the Honourable Member is tracing the whole history of the terrorist movement in Bengal. The Honourable Member is perfectly in order, but the Chair wishes to know what is the object of the Honourable Member in reciting the whole history of the terrorist movement, tracing it from its inception up to this day? Is it the Honourable Member's intention to urge that no matter, what Bills are passed by the Legislature, the terrorist movement will remain, or is it his intention to point out that instead of passing such Bills there are other ways and means by which the terrorist movement could be controlled? If that is the Honourable Member's position, would it not be better, instead of reading out in great detail all that has happened in the past, to come to that point and say in general terms that various measures taken in the past have proved of no avail, and that he has some constructive suggestions to put forward before this House in lieu of the passage of this Bill?

**Mr. S. C. Sen**: My object is to show that from stage to stage the Government took more and more drastic powers, but that the movement is still where it was in 1906 . . .

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Quite so. I have followed the Honourable Member's speech. He need not go into such great detail, but can argue it in the general way.

**Mr. S. C. Sen**: Because it was necessary in this case to show that what the Government did in 1916 was absolutely *ultra vires* and illegal, that they did not always administer the provisions of the law in a proper or legitimate way. Then, Sir, came the Rowlatt Bill. The Rowlatt Committee made certain recommendations and the Act was passed. If we compare the provisions of that Act with those of the present legislation, the House will see in what respect the present legislation goes much further, is more drastic, and more brutal, than even what the Rowlatt

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Committee had recommended. I do not wish to enter into the details of these matters, but I say, after the Rowlatt Act was passed, as there were no outrages, in 1920-21 all these repressive legislations were annulled. In 1924, there was an Ordinance in which certain provisions of the Rowlatt Act were accepted, but the judicial character of the provisions contained in the Rowlatt Act were given the go by.

**Mr. K. Ahmed:** You are supporting the amendment.

**Mr. S. C. Sen:** In 1925, the Bengal Criminal Law Amendment Act was passed, not by the Legislative Council which rejected the Bill, but it was certified by the Viceroy, and no explanation was given as to why there was a departure from the Rowlatt Act. Under that Act, 187 persons were arrested. In 1930, that Act expired, it was not extended, but one portion of it was re-enacted. Immediately after that, in fifteen days, an Ordinance was passed embodying the provisions of that Act, and, subsequently, the Act of 1930 was passed. This Act also contained provisions similar to those in the Act of 1925, and about 991 persons were arrested under that Act. As regards the provisions of that Act, the Government of Bengal, in their Police Administration Report for the year 1931, say this:

"From April, 1930, up to the end of the year, 991 persons were arrested under the Ordinance and the Bengal Criminal Law Amendment Act, of whom 818 were interned and 173 released."

The year 1931 was one of continuous anxiety. The terrorists had extended their organisations enormously among the Hindu bhadralok youths who had been so inflamed by the press and platform campaign waged by the Congress against Government and the British, and encouraged to break laws by the civil disobedience movement and, excited by the terrorist outrages of 1930, that it became increasingly difficult to check terrorism with the special powers conferred by the Bengal Criminal Law Amendment Act, 1930."

My object in saying all this was that from time to time further drastic powers were asked for by Government and were given to Government. The Government not being satisfied with the provisions of the Act of 1930, an Ordinance was passed in 1931 extending the operation of that Act and, subsequently, in 1932, another Act was passed which extended the operation of the Criminal Law Amendment Act which was passed in 1930. That was also not considered sufficient. The Bengal Government, in their report, say: (I am reading it because the Bengal Government have recommended that it should be read):

"The Governor in Council has read with great interest and strongly recommends for perusal by the public the informative survey of the history of terrorist crime in Bengal since 1907, which is set out in Part VII of Mr. Farmer's report. During 1931 terrorist crimes and activities were a source of continuous anxiety and no less than 67 outrages were committed together with 9 murders including those of Messrs. Peddie, Garlick and Stevens of the I. C. S. and Khan Bahadur Ahsanullah, Inspector of Police. The seriousness of the position led to the promulgation in October of Bengal Ordinance IX of 1931, which extended the scope of the Bengal Criminal Law Amendment Act, 1930, so as to permit of action being taken against members and helpers of terrorists' associations. To deal with the situation in Chittagong, where a considerable and very active body of absconders of the Raid Case remained at large, Ordinance XI of 1931 was promulgated on 1st December which gave wider powers to the executive and also provided for more speedy trials of cases connected with the revolutionary conspiracy. To implement the Ordinance, a body of regular troops and increased police forces were drafted into the district."

**THE BENGAL SUPPRESSION OF TERRORIST OUTRAGES (SUPPLEMENTARY) BILL. 3115.**

Sir, not only was this done, but even the Government are doubtful of the efficacy of these methods. On page 28 of the report, the Government say :

"The continuance of outrages proved that the powers conferred by the Bengal Criminal Law Amendment Act, 1930, were insufficient. On the 29th October, the Bengal Ordinance IX of 1931 was promulgated by which the scope of the Act was widened, so that action could also be taken against all members and helpers of terrorist associations, thus conferring powers similar to those which were used with success against the terrorists in 1916. Whether these powers will have the effect of stamping out terrorism, at least temporarily, has yet to be seen."

Over and above this, the Bengal Government under the rule making powers made certain rules and, as has been pointed out by one of the previous speakers, they have inflicted a mass fine on the inhabitants of Chittagong for the terrorist outrages. I will now give the House a copy of the Notification issued by the Government of Bengal.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The Chair would like to know how long the Honourable Member is likely to take?

**Mr. S. C. Sen**: About 15 or 20 minutes.

**Mr. President**: I will wait till the Honourable Member concludes.

**Mr. S. C. Sen**: One of the rules runs as follows :

"The District Magistrate, if, in his opinion, it is necessary for the purpose of preventing communication with absconders or attacks on the persons or property of His Majesty's subjects or securing the safety of His Majesty's forces or police, may, by an order in writing, direct the inhabitants, any class or section of the inhabitants, of any area specified in the order, to remain for a specified period not exceeding one month within the houses or homesteads in which they normally reside."

A more monstrous rule I have not ever come across. Imagine a provision which directs the inhabitants or any section of the inhabitants to remain in their houses and not to go out of their houses for a period of one month. We do not think we have heard of such extraordinary orders as are now sought to be enforced. They are not to go out of their houses even for marketing or for obtaining food supply. They are, as it were, kept in jail in their own houses. Now, I shall give the Notification regarding the infliction of fine. It says :

"Whereas the events of the last two years referred to below, the judicial decisions of criminal courts and information in the possession of Government show that the outrage at the Assam-Bengal Railway Institute at Pahartali, near Chittagong, on the night of the 24th September, 1932, was committed by members of a terrorist organisation, styling itself the 'Indian Republican Army, Chittagong Branch,' and that this organisation is recruited from the Hindu bhadrakalok community of Chittagong town and district and is responsible for the raid on the Armoury at Chittagong, the murder of Inspector Tarini Mukherjee at Chandpur, the murder of Khan Bahadur Ahsanullah at Chittagong and the murder of Captain Cameron at Dhalghat; and whereas it can be confidently inferred from the known facts that the preliminary arrangements for the attack on the Railway Institute could not have been made and the plan itself executed without the knowledge of a great many people ordinarily resident in the locality;

And whereas it appears further that without the connivance of the local inhabitants it would not have been possible for as many as 12 persons to assemble and carry out the raid without detection, or to escape; and that many inhabitants of Chittagong town and neighbourhood should be able to throw light on the occurrence and its perpetrators but have so far failed to communicate their knowledge or their suspicions to the authorities, in response to the communiqué issued by the Government of Bengal on the 29th September, 1932; ,



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Now, therefore, as there are good grounds for the belief that persons concerned in the commission of the above offences and other acts prejudicial to the public security and to the maintenance of law and order are being harboured and assisted by the Hindu inhabitants of Chittagong town and neighbourhood, the Governor in Council, in exercise of the powers conferred upon him by sub-section (1) of section 27 of the Special Powers Ordinance, 1932 (X of 1932), hereby imposes a collective fine of Rs. 80,000 on (1) the inhabitants of Chittagong who are owners or occupiers of holdings within the area of the Chittagong municipality which are assessed to municipal taxes and (2) the inhabitants of Pahartali railway colony, and the villages of Patya, Anwara, Kanungopara, Saroatali, Sakkura, Kattali and Gomdandi, subject to any order which may be passed exempting any person or class or section of such inhabitants from the liability to pay any portion of the fine.

2. It is further notified that in order to allow those inhabitants of the areas concerned who have recently formed watch and ward committees for the purpose of assisting the authorities in obtaining information about the movements of terrorists an opportunity of proving their good intentions, realisation of the fine will be postponed until December 1st, 1932. If in the interval information is forthcoming leading to the arrest of all or some of the perpetrators of the outrage of September 24th last, the local Government will, on receiving the recommendations of the local officers, make such adjustment in the amount of the fine and such further exemptions in any area or in the case of any individual as the circumstances may justify."

What logic is this? A more ridiculous argument cannot be conceived. My friend, the Honourable Mr. Bajpai, is not here. If he were here, I would have given it to him to keep it in the Delhi University as a piece of logic to be used as a specimen by the students of logic. Let us take one passage from the Notification:

"And whereas it appears further that without the connivance of the local inhabitants it would not have been possible for as many as 12 persons to assemble and carry out the raid without detection or to escape . . ."

What logic or what convincing argument, Sir, I cannot understand. It was a Navami day, a dark night. It says 12 persons came and, therefore, the whole community must be supposed to have been awake. The whole place is occupied by the lower classes of mistries in the workshops. Let us take another clause out of the Notification:

"and that many inhabitants of Chittagong town and neighbourhood should be able to throw light on the occurrence and its perpetrators, but have so far failed to communicate their knowledge or their suspicions to the authorities, in response to the communiqué issued by the Government of Bengal on the 28th September, 1932."

The occurrences took place at 9 o'clock in the night and it was a dark night. But the conclusion is come to that many inhabitants of Chittagong should be able to throw light on the occurrence and their perpetrators. The logic here is invincible and I am sorry that a Government order should contain such absurdities. It does not stop here, but goes on to state that there are good grounds for the belief that the persons concerned in the commission of the above offences and other acts prejudicial to the public security and to the maintenance of law and order are being harboured and assisted by the Hindu inhabitants of Chittagong and the neighbourhood. The "good grounds" are contained in the recitals mentioned in the Notification and I leave the House to judge whether any sane person, upon the facts stated, could come to the conclusion which the Government of Bengal did and upon such conclusion to inflict a mass or collective fine of Rs. 80,000 upon the Hindu inhabitants of Chittagong. Sir, under what logic or what sane argument such a deduction can be made, I do not know. Probably my Honourable friend, the Home Member, who is probably aware of this Notification as it appeared in the Gazette

of the 27th October and he came back from Calcutta on the 23rd October, might have had a hand in this matter. However, the fact remains that the entire Hindu inhabitants of Chittagong and its neighbourhood are to be fined, because 12 persons came there, committed the raid, and could not be detected. Therefore, the Hindu inhabitants of that town must be conniving at their actions and must be harbouring them! Sir, it should be remembered that in Chittagong 18 persons per hundred are Hindus and 82 persons per hundred are Moslems, and I am informed that specially in this part of the town, which is occupied by Europeans, Anglo-Indians and other Railway employees, probably the whole lower class population is Moslem or Sikhs.

Sir, I have shown to what length the Government have gone for the purpose of suppressing this movement. They have substituted terrorism of the worst kind for another kind of terrorism, and I say it is of the worst kind, because it is being perpetrated by Government in the name of law and order and especially at this time when the people are suffering from acute distress on account of the economic depression all round. Sir, I have shown up to now that from time to time repressive measures, and, what I would call progressively repressive measures, have been added to the Statute-book for the purpose of stamping out this terrorism, which, I may say, everybody wants that it should be stamped out, but with no success. Sir, the net result of this progressive repression in Bengal has converted the abnormal into the normal. An attempt has been throughout made by Government from 1906 upwards to oust the judiciary. Sir, in enacting these enactments, the Government have substantially introduced martial law, which is the negation of all law, but why should they not do so in a straightforward manner? Instead of coming before the Legislature for further powers, it would have been more honest for them to declare martial law in the province of Bengal or the district of Chittagong. That would have been more honest and more straightforward course, and not only that,—the merit of that straightforward course is that the confidence of the people in the administration of justice would have been unaffected, whereas, by ousting the jurisdiction of the judiciary, you have made your position in this country, so far as the administration of justice is concerned, a precarious one. Sir, Government do not realise that the confidence of the people in British justice is the greatest asset—much more valuable than the sword and the bayonet.

I was reading the other day an old Volume of the *Friend of India* with which my friend, the Honourable Mr. Moore's paper is associated. In that Volume, I find that the missionaries of Serampore, who were then conducting that paper, were considering the reason why British rule in this country had been made permanent, so that, even at that time they were considering whether it was the hand of Providence or otherwise. They dismissed the case for the hand of Providence, but they said that it was the just laws and the just administration of the laws that made the foundations of British rule in this country permanent. Such were also the words of Lord Minto even in 1908, when, in connection with the Bill to prevent incitement to violence, he repeated the same thing and he said that the British Raj in this country was built upon the foundation of just laws and he hoped that that would continue to be so. Sir, I appeal to the Honourable the Home Member to consider for himself whether the laws that are now being pressed by him in this Legislative Assembly or even in the Legislative Council of Bengal can be termed as just laws. Sir, the Executive have practically ousted the jurisdiction of the High Court and the

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truth blurted out of the mouth of the Honourable the Home Member. When introducing this Bill, the Home Member stated this:

"We propose that just as the Bengal Act has removed the jurisdiction of the lower Courts, so we should remove the jurisdiction in this matter of the High Court."

Then he goes on:

"The object of establishing these Courts of Special Magistrates is to provide a speedy form of trial for terrorist offences. If the accused are able at every stage of the proceedings to make applications in revision to the High Court," etc,

then, Sir, the following words which spontaneously came out are very very important and show what degree, if I may say so, of respect or contempt he has for the High Court:

"applications which, I have no doubt, would eventually not be entertained, but which would still serve their purpose of delaying"

the proceedings.

Now I have not heard of such an expression of opinion by even the worst enemies of the British Raj. Here the Honourable Member takes it for granted that the High Court of Bengal has been reduced to such a condition, has had such a fall at the present moment, that the Honourable the Home Member, as representing the Executive Government, can confidently assert that these petitions by the accused will not be entertained by the High Court.

**The Honourable Mr. H. G. Haig:** Sir, on a point of personal explanation, may I make it clear that my argument was that these would be frivolous applications, put in for the purpose of delaying the proceedings, and naturally, if they were frivolous applications, eventually they would be rejected by the High Court. That was my argument.

**Mr. S. C. Sen:** Sir, if I had repeated these words in public, I would at once be convicted by the High Court of contempt of Court. This belated explanation of the Honourable the Home Member cannot convince any body. Then there is another argument that, as these provisions are to be administered by Special Magistrates, who are also judicial officers in a sense, therefore the argument, which we have advanced, namely, that there is a departure from the judicial element in executive action, does not apply. But who are these Magistrates? They are either the District Magistrate, who is the executive head of the district or other Subordinate Magistrates who are under the District Magistrate. It is notorious,—however much it may be denied in this House—that these Magistrates deal with cases as the Superintendent of Police of the District want them to do, and I can say for the edification of my friends that just before I left Calcutta I heard from a very reliable source that the Deputy Commissioner of Police, Northern Division, called upon one of the Presidency Magistrates, Calcutta, to explain his conduct as to why he had acquitted certain persons. That is how the law is administered even in the Presidency Town of Calcutta, not to speak of the mufassil towns.

**Sir Abdulla-al-Māmūn Suhrawardy:** What is the name of the Deputy Commissioner?

**The Honourable Sir Brojendra Mitter (Law Member):** Who is the Presidency Magistrate?

**Mr. S. O. Sen:** I am not prepared to give his name. I may tell you this that the Presidency Magistrate is a Muslim. That much information I can give to my friend, Sir Abdulla Suhrawardy.

**Sir Abdulla-al-Mámún Suhrawardy:** Will you kindly tell me if the Deputy Commissioner is not a Hindu?

**Mr. S. O. Sen:** He is a European gentleman. In the northern part, there is no Hindu gentleman who is holding the position of the Deputy Commissioner of Police.

**Mr. G. S. Dutt (Bengal: Nominated Official):** Should the Honourable Member be allowed to cast unfounded aspersions on the character of a whole body of public servants such as the First Class Magistrates in Bengal by describing them all as mere creatures of the District Magistrates?

**Mr. S. O. Sen:** The other day, the Law Member said in this House that the rule of law was one of the fundamental principles of British administration. What are the Government doing now? They are substituting the rule of the police for the rule of law. Even from the time of Sir Henry Adamson, attempts were being made or it was considered necessary to separate the Executive from the Judicial and in Bengal particularly a committee under Justice Greaves was appointed to consider this question. That was about 15 years ago. That Committee made a unanimous recommendation that the Judiciary and the Executive should be separated, but, Sir, nothing has so far been done. The cry that there is no money is still there, although we find that only the other day over two lakhs of rupees was sanctioned by the Bengal Government for the police force in Chittagong, who have shown themselves inefficient and unreliable, because they could not detect 12 persons in Chittagong for whom they have been engaged for the last two years.

If they had separated the Judicial from the Executive, most of our opposition to these reactionary enactments would not have been called for. I would ask the Honourable the Home Member to ascertain whether the service men other than the police are not equally discontented or they are not more discontented than the agitators regarding the action taken by the Government in connection with these repressive laws. Sir, as I said before, it now looks as if martial law has been proclaimed in Bengal without the straightforwardness of Government in declaring such laws. I for one would thousand times prefer that Sir Philip Chetwode's officers should govern and administer the laws in Bengal rather the officers of Mr. Prentice, for I know the army officers are gentlemen.

**The Honourable Mr. H. G. Haig:** What does the Honourable Member mean? Is this a reflection on the whole of the Civil Service and the police? Is the Honourable Member asserting that the members of the Civil Service and the police are not gentlemen?

**Mr. S. O. Sen:** I have said nothing, Sir, about the Civil Service. I have said the officers under Mr. Prentice . . .

**The Honourable Mr. H. G. Haig:** They are District Magistrates and Commissioners.

**Mr. S. O. Sen:** District Magistrates are covenanted officers and appointed by the King and they hold appointments under covenants. *(Several Honourable Members: "But they are under the Honourable*

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Member.") They are not. Sir, the other day, my friend, the Honourable the Home Member, in introducing the Bill, made the following observations :

"In order to extirpate it, effort is required from many directions. There is a whole chain of executive and judicial processes, of which the provisions of this Bill represent a small, though essential, link. Effort, I admit, is also required in other directions,—to stop recruitment of terrorists, by improving public opinion and by endeavouring to cure some of the conditions—economic and educational,—which have fostered the growth of the movement."

I admit, Sir, that these efforts should be made in this direction. But how are they to be made? How is it possible under the present circumstances for the public to come forward and make efforts like these? Sir, we know of the several instances which have been cited here which go to show that every attempt has been made by Government which goes to lead astray public opinion, which makes public opinion impossible to be ranked on the side of Government and by these actions Government are practically throwing into the arms of the terrorists the people who have hitherto supported the Government measures. The fine on the whole Hindu inhabitants of Chittagong is an example to that effect. It cannot be said that all these persons, the whole Hindu inhabitants, are guilty; most of them are innocent persons and yet they have to pay this heavy fine. Now, what would their feelings be towards the Government? Will the feeling be one of sympathy towards the British Government for taking money from them or will it be otherwise? Another result of it would be that some of the younger generations would certainly associate themselves with the ranks of the terrorists rather than be subject to the most terrible repressive laws enacted by Government. Sir, my friend, Pandit Sen, referred to the Chittagong raid and I understand the Honourable the Home Member asked him what authority he had for the various incidents which Pandit Sen narrated here. I ask the Honourable the Home Member whether he is in a position to deny all these charges? Had not the Government appointed Mr. Nelson, the Commissioner of the Division, to inquire into this matter, and whether Mr. Nelson has not submitted a report? Did the Government have the courage to publish that report? No, Sir, for the simple reason that if that report was published, it would have shown that all the allegations made by the Pandit had been thoroughly and absolutely supported. I challenge the Honourable the Home Member to produce that report in this House and to show from that report that the statements made by Pandit Sen were wrong. It is also said by Government that this raid of the Hindu houses at Chittagong was committed by the Mussalmans of that part of the country. I deny that entirely. That the Government have made that charge is clear from the administration report which I was reading and for the edification of my Muslim friends . . . . .

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The Chair asked the Honourable Member how much time he was likely to take and he said fifteen or twenty minutes: he has taken twenty-five minutes already and still the Honourable Member's trend of speech shows that he will be considerably longer. The Chair does not wish to ask him to curtail his remarks but if he had given a correct idea of the length of time he was going to take the Chair would have been able to regulate adjournment for lunch.

**Mr. S. C. Sen:** I am very sorry, Sir, but . . . .

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Are you going to be very long?

**Mr. S. C. Sen:** Yes, Sir. I shall be a little long.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Before adjourning the House for Lunch, I should like to inform Honourable Members that they are aware that the Honourable the Leader of the House intimated that he would request the Chair to suspend the Standing Orders and take up the consideration of the Ottawa Select Committee's Report earlier than the interval required by the Standing Orders. The Chair has given the matter its best consideration and has decided to exercise the powers vesting in it under Standing Order 44, to suspend the Standing Orders and to call upon the Honourable the Commerce Member to move his motion on the Select Committee's report as soon as the consideration of the present Bill is concluded. As soon as the consideration of this Bill is concluded, the next motion before the House will be the consideration of the Select Committee's report on the Ottawa Tariff Bill. The Chair wishes to make it clear for the information of Honourable Members, that under the Standing Orders two clear days' notice is required for any amendments which any Honourable Member may wish to move. The Chair will dispense with the two days' notice and will allow Honourable Members to give notice even up to the time when the motion for consideration of the Select Committee's Report is before the House.

The Assembly then adjourned for Lunch till Three of the Clock.

The Assembly re-assembled after Lunch at Three of the Clock, Mr. President (The Honourable Sir Ibrahim Rahimtoola) in the Chair.

**Mr. S. C. Sen:** Sir, I was referring to the Chittagong raids and I was referring to the reports made by the Government of Bengal in their Annual Reports. For the edification of my Muslim friends, I refer to page 31 of the Report on the Police Administration in the Bengal Presidency. I need not read the whole paragraph, but I will read only such portions as I consider necessary :

"This attack on an officer who had been in the district for many years and was well-known and respected roused deep indignation among the Muhammadans not only in Chittagong, but throughout East Bengal, and was immediately followed by an attack on Hindu property in Chittagong which was soon quelled however by the authorities."

The whole thing is a tissue of lies. I know it for a fact, and I have it on very reliable authority that the raid on Chittagong was engineered by the authorities there including the District Magistrate himself, and all the riff raffs of Chittagong were called in for the purpose of helping in the raid. The Muhammadan community as a whole, the respectable portion of it, did not join in it . . . .

**Khan Bahadur Abul Hasnat Muhammad Abdul Hye** (Bengal: Nominated Official): Which raid do you refer to? Is it the Chittagong Armoury raid, or any other raid?

**Mr. S. C. Sen** : . . . and the Government had not the courage to say explicitly who the raiders were, but they left it to be inferred that the Muslim population of Chittagong were the culprits. The Honourable the Home Member, with reference to some of the incidents referred to by Pandit Satyendra Nath Sen, inquired whether proceedings had not been taken. He forgets, Sir, that in most of the cases when people who suffered applied for sanction to prosecute the officers concerned, such sanction was invariably refused. I can tell for the information of the Honourable the Home Member that when the police entered one of the schools, they did not spare even boys of ten years of age. The guardians of the boys and the teachers who were assaulted most mercilessly applied for sanction to prosecute, but sanction was refused . . . .

**Mr. F. E. James** (Madras: European): Which school was that?

**Mr. S. C. Sen**: You can get it from the Report. There was a raid on a school.

**The Honourable Mr. H. G. Haig**: My inquiry related to an incident described by Pandit Sen in which it was alleged that a woman had been violated. Does my friend suggest that sanction for prosecution was refused?

**Mr. S. C. Sen**: No, Sir; I do not know of that incident, but I know of several instances where sanction was refused, and the case I mention is one of those instances. I may also mention that moveable properties which were looted were found in the houses of various persons. People, whose moveable properties were looted, went to the District Magistrate and asked for search warrants, and that was refused. I need not remind my friend that in the Dacca case a student, Ajit Bhattacharjee, was killed at the hands of the police, and his uncle applied for sanction to prosecute. The Magistrate wrote about half a dozen foolscap sheets and said that no sanction could be granted. The reasons for such a decision were more than I could say. In the Presidency College raid, I think the Home Member will remember, the son of a highly respectable person, a Judge of the High Court, was brutally assaulted, and I can say that His Excellency Sir Stanley Jackson himself assured that gentleman that full justice would be done in the matter. What was done, may I know? I happen to know something about that case, because my firm was consulted in the matter. These are some of the instances, I do not wish to multiply them here or to take the time of the House. These instances show that Government, for the sake of false prestige, are denying justice to the oppressed people alienating public opinion and public sympathy. ("Hear, hear" from the Nationalist Benches.) That is my grievance. I am not against the Government in any step which they think fit to take to suppress terrorism, but I say that these incidents show that Government look more to the prestige of the police force than to justice. Now, for the last 27 years, we have got this one method of dealing with the terrorist movement. Is it not time to cry halt and to take stock of the whole situation and see how far this terrorist movement has been suppressed by these methods? Is it not time for the Government to appoint a Committee, as they did on the last occasion, when Justice Rowlatt was brought out and to find out the causes which

are spreading the movement beyond control, instead of sticking to their only stick, namely, drastic legislation and repression? The Government should remember that terrorism is an act of despair. People, who go about, with a deadly poison in one hand and a pistol in the other, and face immediate death, naturally resort to such a thing out of sheer desperation, because they feel that there is no remedy for the treatment meted out to their country, to them, or their kinsmen or to their families or to the general Hindu public at large. Why is this desperation? Why can't a remedy be found? If any remedy can be found for the removal of this desperation, I am sure that terrorism will go out of this country. Nobody would voluntarily court death; everybody loves his own life more than anything else. I appeal to Government to consider carefully why such an act is being done by youngmen and women, people highly cultured, people who would be ornaments in any society or in any country in the world. Why should they court death in this manner, I mean poison in one hand and pistol in the other? The Government must remember that an act of punishment on an innocent person recoils on them, and that fifty persons are converted against Government by one act of injustice. That was shown during the last civil disobedience movement. This movement would not have been spread to such an extent in 1930 if the *lathi* charges and other repressive acts had not been resorted to by Government. I ask the Government why they cannot think of other methods for the purpose of suppressing the movement. Why cannot they take steps to get the general Hindu public of Bengal, who, I must remind the Honourable the Home Member, supported the British rule in this country at most critical times and who went with the British troops to Peshawar and other places in support of the British administration, to co-operate with them—the Government should consider why they should range themselves against law and order and range themselves against the British Government. It is time that the Government considered the matter carefully and seriously and not launch upon further repressive measures which can only estrange the people. If the Honourable Member would require any suggestion to be made in this matter, I would ask him first and foremost to give up the false idea of prestige and to deal out justice between man and man and between the police and the people. Secondly, they should separate the Judicial from the Executive functions, and make the High Court all powerful in matters judicial; and, thirdly, so far as Bengal is concerned, I am constrained to say, remove Mr. Prentice from the administration of the Government of Bengal.

**Mr. Muhammad Anwar-ul-Azim** (Chittagong Division: Muhammadan Rural): I hope the House will excuse me if my feeble voice does not reach all parts of the House, because I have got an attack of catarrh in my nose. I have listened with a very great amount of interest to what was going on on the floor of the House with regard to the various measures which have been passed and introduced for remedying the terrorist movement in my part of the country. I think it sometimes requires a great deal of courage to call a spade a spade because it entails a great moral responsibility and concomitant risk, but a just and conscientious man would never call a spade—a club or a diamond. I really wish that some of the previous speakers who have taken part in this debate had been more logical and accurate—am I audible, Mr. President?—with regard to facts and also had checked their tirade proclivities which are at once aroused as soon as they are in a position to catch.



**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Honourable Member may come to the Front Bench and speak from there to avoid the strain,

**Mr. Muhammad Anwar-ul-Azim**: Thank you, Sir. (The Honourable Member then came to the Front Bench.) Once they are in a position to catch the eye of the President, they forget for the time being the whole world and do not care to respect those so much vaunted things as logic, consistency, etc.

As regards the situation in Chittagong, I think nobody in this House is in a better position than myself to tell the House what has happened there and what has been happening there since 1930. I represent that constituency, I have got a vast stake, by the grace of God, in that part of the country, and I am naturally anxious as a citizen of that place, that my people should live in peace and harmony and not be disturbed by anybody, either the Government or the Congress. I do not think it would be right for me to go in detail with regard to the situation which arose on the eve of the Moslem Conference in Chittagong in April, 1930, which sat on the 18th April. On the previous night, there was a huge raid over three important places in that district. Several people were killed, and the key positions which connect my part of Bengal with the other parts by train were taken off. If the Moslem delegates had not crossed that area an hour earlier, I am afraid at least about 40 brilliant first class Bengal Moslems would have lost their lives. There have been insinuations, clumsy insinuations, against my people. It has been suggested by certain friends in their wisdom that my people are responsible for the raid in 1930. A darker calumny there can never be, because the Government of Bengal, especially at that time, were more or less a partisan administration. In fact, I make bold to say, and I hope the Honourable the Home Member will excuse me, that in 1930 and even up to now you will not find among the C. I. D. officers a single Moslem, and if anybody suggests that the Moslems of Chittagong had anything to do with that raid or any other subsequent happenings, I am certain he does them a very great injustice, because my learned friend, Mr. S. C. Sen, has waxed eloquent with regard to the imposition of fines. Certainly that is a special matter, but when my learned friend quoted the percentage of his people and my people, I think my people were 82 per cent. of the whole area. If you have a curfew order, under which people could not get out from their houses, or have got to reach their houses by sunset or could not get out of their houses before the sun was up, in a place where we are 80 per cent. one can easily imagine who are the sufferers. I can assure you that both in the town and in the rural areas we were very great sufferers. Our trade has gone, practically the whole thing is at a standstill on account of the terrorist activities. So, it will not be right for Mr. Sen to say that his people are the only sufferers, but if a toll was taken and right conclusion was arrived at, it would be found that we Muslims have lost lakhs and lakhs. Furthermore, there was an insinuation that the executive of Chittagong sided with the Moslems, and that was an indirect cause of keeping the terrorist movement alive in that part of the country. We have seen recently that there were house searches in the town of Chittagong and the Moslems have not escaped from that. This matter was strongly agitated by the Muslim Members of the Bengal Legislative Council and what I feel is that that was manoeuvred by interested persons to give the

Mussalmans a bad name and bring them within the category of barbarous offenders, which they are not.

Now, with regard to my esteemed friend, Professor Sen, he has also insinuated that the raid on the Pahartali Institute was perhaps the doing of the Mussalmans. I am really surprised to hear that a gentleman of Pandit Sen's intelligence should come to that level of insinuation. The plain fact is that the Assam Bengal Railway Institute is situated near Pahartali station. Pahartali is about four miles West of the Chittagong town connected by a first class motor road and the place, where this road meets the station on its immediate left, is the Assam Bengal Railway works and immediately to the East of that works are the quarters of officers and along with those officers' quarters on the hill top are the quarters of the clerks in the valley, and on the immediate West of this Institute is the Assam Bengal Railway school, and to the immediate North and West are the residences of the clerks, mostly up-country and Sikhs, and immediate to the North are little elevations of hills. It will not be right for anybody to suggest that it will not be possible to commit mischief. They could easily come from the West, East and North and on the South side there being huge workshops. If my friend, Mr. Sen, has suggested that it was not in the range of practical possibility of mischief, he must be wrong. It was quite possible for them to do so. The Mussalman *busti* is about quarter of a mile on the sea coast which is to the North-West of the Institute and the inhabitants are mostly illiterate weavers. I am a law-abiding citizen and you must have noticed, Mr. President, that I do not take any partisan view on any matter, but I think great mischief is done by over exaggerating the real facts here on the floor of the Assembly and printing and broadcasting it in the world. If it were possible by any law or regulations to curb some of our proclivities here, I think that would be a first class solution of the trouble, better than even having autonomy in the provinces.

Several speakers before me have suggested what were right remedies for cradicating this movement. Mr. Abdul Matin Chaudhury and my esteemed friend, Mr. S. C. Mitra, have said that only full fledged Dominion Status will vanish this trouble like dew. Since I joined the Bar in 1920, I have had opportunities of working in District Boards, Municipalities, Universities and a hundred things like that in public life and, as a practising lawyer, I feel myself humbly that it will not meet the requirements of the case. The wave of unrest, which has been created, the wave of misunderstanding, which is allowed to germinate, is sufficient even to shake any established Government, and my suggestion to the Government of India would be to try to scotch this serpent and then you will find the situation very much easier. It requires a great amount of courage to scotch this serpent, but I can assure you, once you allow it to germinate, it will become a big giant and it will practically shake the whole fabric of society and civilisation.

You will remember, Mr. President, that during the last part of Mr. Sen's tirade, or rather address, he has tried to bring in the homily of Mr. B. C. Chatterjee, Leader of the Independent Party in the Bengal Legislative Council. While the Bengal Municipal Bill was being discussed, Mr. Chatterjee addressed the officials and the Europeans and said: "We helped you in 1757. Why don't you trust us now?" That is a wrong view to take, because 1757 is past history. Let us live in this country peacefully. If we go on raking the sordid past, I am afraid we will turn this wonderful

[Mr. Muhammad Anwar-ul-Azim.]

land of ours into a desert. Several friends like Mr. Mitra and Pandit Sen have tried to show that the executive of the Government of Bengal is in a high mood and they are not respecting law and order. As a matter of fact, I have tried to defend some of the Ordinance accused while in Chittagong and my impression is this, that both the District Magistrate who is an experienced and sagacious man, and the Commissioner are not the people who will do this sort of thing. I know the police also. I am certain they will be the last persons in this world to budge an inch against law and order. They will never do it. It is absolutely unthinkable. It has been said by certain friends that the old District Magistrate of Chittagong was a party in the riot which arose after the death of Khan Bahadur Asanullah. Khan Bahadur Asanullah was a distinguished officer. He was murdered by a young man while he was watching a football match in the polo ground. As a matter of fact, I was at that time in Simla and immediately after I went down, I came to know about the riot which followed the death of Asanullah and it was not the result of any premeditated plan, but might have been the action of riff raffs who are every where in India.

With regard to the matter of fine, Mr. President, I have just mentioned that we Mussalmans were the greatest sufferers, in a hundred and one ways, and why there should be such a hue and cry for justly excluding us from this fine? The latest information, the latest communiqué is this that perhaps by that contribution certain parts of the Municipality and of the District Board of Chittagong will be improved, because the Government communiqué is very clear. I am very sorry that Mr. Sen, in his experienced wisdom, thought it proper to mention that certain Government officers told him something. In the absence of a name, I am certain nobody in any part of this House will pay any heed to that, Sir, because it is always possible to hit one back from behind. If I am standing here, and if anybody were to put his knife into me, that won't be fair. So if there was really a suggestion by anybody in Calcutta, I am certain Mr. Sen would have had the courage of his conviction and named him and he should not have taken shelter under any such pretext. So, in that view of the matter, I am certain, without meaning any disrespect to my Honourable friend, that perhaps he was not properly informed or he must have confused the whole idea; and, of course, the Government are sufficiently strong here to defend their officers. Bitter attacks have been launched upon Government officers both executive and judicial, but may I not pertinently ask my friends this question? They are all not taken from Ireland or England, most of them are your own people, and what good will it serve if you besmear sand on them? Is it consistent with your cry for Indianisation of services? Lastly, the very wrong insinuation was made that since 1906 the Government have been backing a certain class of people. I reply, certainly not. I most emphatically deny that insinuation, because what is the history? Of course, as you know, in 1906—the date of the genesis of terrorism in Bengal—perhaps Lord Curzon in his wisdom thought that certain results would be achieved by the Partition of Bengal. But the Bellicose Government of Lord Hardinge, yielded to their request and the Partition was reversed. But why bother about that? That is past history. Lastly, Sir, with regard to the clauses of the Bill, I have to say this much that perhaps there may be a certain force with regard to the contention of my friends to my right that at one stage when an accused had been sentenced to a certain term of punishment and he had not a chance of appealing to the High Court; but we have the authority of no less a

person than the Honourable the Law Member and if he assures us that that kind of thing will be stopped, and the accused's rights will be well met, then I do not think we can demur to that. So, to sum up, I think this is a highly desirable piece of legislation, and I trust that all of us, not excepting my Honourable friends, Mr. S. C. Sen, Pandit Sen and Mr. Mitra, will give our blessings and good wishes for the speedy passage of this Bill through the House.

**Mr. B. V. Jadhav** (Bombay Central Division: Non-Muhammadan Rural): Sir, I rise to support the amendment that the Bill be circulated for eliciting opinions of the High Courts moved by my friend, Mr. S. C. Mitra. Sir, my point is, that as the Honourable the Law Member explained that the jurisdiction of the chartered High Courts cannot be ousted by any legislation passed by this House, but that the High Courts that have been established under an Act of this House do not get any such privileged position and the Acts of this House will be binding upon such High Courts and their power of hearing appeals and revisions can be taken away from them by legislation passed in this House.

**The Honourable Sir Brojendra Mitter**: Sir, I have explained before that no such High Court is affected by this Bill.

**Mr. B. V. Jadhav**: Besides the chartered High Courts?

**The Honourable Sir Brojendra Mitter**: The only High Court affected is the Calcutta High Court.

**Sir Muhammad Yakub** (Rohilkund and Kumaon Divisions: Muhammadan Rural): Is not this Bill confined to Bengal alone?

**Mr. B. V. Jadhav**: Certainly, but then it might at any time be extended to other provinces. If it be confined to Bengal alone, the question to be asked is, why this Bill is being brought in this Assembly and why it should not be passed by the Bengal Legislature?

**The Honourable Sir Brojendra Mitter**: Because they cannot do it.

**Mr. B. V. Jadhav**: Sir, I am rather afraid that at any future date its provisions might be extended to other Presidencies as well. (*Sir Muhammad Yakub*: "All the Presidency High Courts are chartered High Courts.") (Further interruptions). I am not giving way, and I would ask my Honourable friends to allow me to go on.

Sir, whenever the Government would require any such legislation, they may come before this House and may repeat the provisions of this present legislation and say, "such legislation has already been accepted by this very House on a previous occasion and, therefore, it ought to be accepted on this occasion also". Therefore, we have to be very careful as to what sort of legislation is allowed to be passed; and, therefore, I take this early opportunity of offering my opposition to this Bill here just now; and, although the present Bill is confined only to Bengal, I say that it ought to be circulated for eliciting the opinions of the High Courts. The High Courts' jurisdiction and powers of revision are going to be affected, although in the present case in Bengal in the first instance, but still I say the High Courts as a whole should present their opinions, and when these are before this Honourable House, they will furnish a very good guide for us to act, and, therefore, I press that the Bill ought to be circulated.

[Mr. B. V. Jadhav.]

Then, as regards the provisions of this Bill, although Government do not recognize the science of Homœopathy, still in the grappling with other ills than bodily ills, they do take advantage of the principles established by Hahnemann. (*An Honourable Member*: "Curing terrorism by terrorism.") I am coming to that. Sir, these are very stirring times and many people's minds are fixed upon securing more rights under the present constitution and under the future constitution.

In the Congress or outside the Congress, there are two schools of thought. One thinks that greater power can be won by means of violence. Mahatma Gandhi and his followers are the supporters of the opposite school and they preach non-violence. To the Government both schools are equally disagreeable. I do not think they make any difference between the two. The violent section is now dubbed the terrorists, because Government think that their idea or their mode of operation is to strike terror among Government officers and others so that the administration of the country would be thrown into confusion. Government equally are against the non-violent section of the politicians and they have very lately passed the Ordinance Bill to put them down. This Bill is for the violent section and, in both the cases, the idea is to strike terror, terror among the partizans of violence and also terror among the partizans of non-violence. So, the Government have in their mind only one sort of remedy. They want to strike terror and whenever they have to act in an emergency where legislation is not at hand, they proclaim martial law. I shall give the instance which occurred in my own province. At Sholapur, there was a riot and the Government of those days at once thought that it was necessary to proclaim martial law and as long as the provisions of the martial law were in force, the same steps to strike terror were adopted as are now taken in the district of Chittagong and other places. But let me tell the House that the proclamation of the martial law and the working of it at Sholapur, although it was for a very few days only, have undermined the trust of the people of that part of the country in the fairness and justice of the British Raj and they have come to look upon the Raj as being very violent and very cruel. (*A Voice*: "Everything is fair in love and war.") But it is no war. Warring against one's subjects is no war. I am not talking of love. To shoot defenceless subjects indiscriminately is no war at all. If it is anything, it is butchery. (*A Voice*: "What about the killing of police men?") That is butchery too. I condemn both. So, I feel, Sir, that this homœopathic remedy may not be of much effect. Terrorism is not to be put down by terrorism. It may go down for a time, and people may work more underground, but the spirit will be there and Government will not be able to command the love and affection of the people by these methods. With these words, Sir, I support the amendment.

**Mr. N. N. Anklesaria** (Bombay Northern Division: Non-Muhammadan Rural): I am sorry, Sir, I cannot support my Honourable friend, Mr. Mitra, in his present motion. I should have very much liked to support him if I could do so with reason and propriety. Sir, this Bill seeks to remove from the way of the Bengal Council an insuperable difficulty in its design to enact a piece of legislation which, in the circumstances of the case, has been admitted by all reasonable persons to be very necessary. I believe the Bengal Council is more competent to

pronounce an opinion on the present matter than my Honourable friend, Mr. Jadhav, and his supporters. That being the case, it is incumbent on my Honourable friends who have moved the amendments and my Honourable friends who have supported them to adduce some solid reasons in support of their statements. What are the reasons which have been adduced so far? It is said that it is necessary to obtain the opinions of the High Courts, especially the opinion of the High Court of Bengal. Now, Sir, I ask what is the High Court of Bengal going to say on the present matter? The Bill practically consists of three clauses, clauses 3, 4 and 5. As regards clause 3, which gives a right of appeal to the accused person, there can possibly be no objection to it from anybody in this House and no opinion of the High Court would be required on it. As regards clauses 4 and 5, is the High Court going to say that they are *ultra vires* of this Legislature? Can you ever expect the High Court to pronounce an opinion on a piece of legislation which they themselves will have to administer if this Bill becomes an Act? Sir, my experience is that more often than not the High Courts would refuse to put themselves in this awkward position and would refuse to pronounce any opinion on a Bill like the present one before it becomes a law and before a specific case has been brought before them for adjudication. Sir, the second ground adduced is that the law has been abused and the law sought to be enacted in the present Bill is also liable to be abused. I say, Sir, that that is not a ground for holding up this piece of legislation for the time it is sought to be held up by these amendments. That is a ground for rejecting the whole Bill, not for circulating it. I, therefore, oppose the amendments.

**Mr. Nabakumar Sing Dudhoria** (Calcutta Suburbs: Non-Muhammadan Urban): Sir, I rise to oppose this motion. The Bengal Suppression of Terrorist Outrages Act—the main legislation—was passed by the Bengal Council sometime ago. There the main principles—the essentials—of this legislation have all been accepted in the presence of Honourable Members, some of whom were of the Honourable the Mover's ways of thinking. The Bengal Council was the proper venue where such a motion should have been brought. And I should not wonder that a similarly-worded motion had already been moved in the Bengal Council and was lost. This House is not the proper place to consider such a proposition at this stage of this legislation. This House is not to re-do a thing that has already been done up, as I presume all the objections that my Honourable friend has set forth were all taken in the Bengal Council. This Supplementary Bill has come up before us to consider a couple of formal matters, because if this Legislature will not adjudge upon them forthwith, the law already made on the subject would remain defective, and complications would arise in the administration of that law. So, to my mind, my Honourable friend's motion intends only delaying of the passing of this salutary legislation. I say advisedly *salutary*, as there can be no two opinions that such a measure is insistently demanded at the present moment in the province of Bengal. Like a cancer terrorism has been eating into the vitals of the Bengal administration. Security, peace, good-will—those essential factors of good government—have all disappeared before terrorism. In Bengal, the terrorists have rendered the administration literally impossible. All sorts of Bengal public servants, high and low, have got either nervous or unnerved. Law-abiding people too cannot make themselves heard and felt anywhere in

[Mr. Nabakumar Sing Dudhoria.]

Bengal for fear of the terrorists. In some places, military has been posted to infuse courage into the dropping spirits of the officials. But that is not all and sufficient. Stringent legislation like the main Act is necessary to cope with the unheard of and unnatural situation that has come into being. All sorts of legislative safeguards, which have hitherto served as loopholes or hindrances, have to be temporarily suspended and abrogated till present conditions have improved. My Honourable friend should not, therefore, strain at a gnat when he has already swallowed a camel. The big pill has already been swallowed by his compeers in the Bengal Legislative Council. My Honourable friend should not refuse to swallow the smaller pill here in this House. I should, therefore, strongly advise my Honourable friend to withdraw his motion and let this legislation get through smoothly. (Cheers.)

**Mr. B. N. Misra** (Orissa Division: Non-Muhammadan): Sir, perhaps Honourable Members may think that I need not speak, because I do not know much about . . . . .

**An Honourable Member:** Louder please.

**Mr. B. N. Misra:** . . . . Bengal and that I am not interested in it, because I do not come from Bengal. I have read just cursorily something about this. When I go through the Bill, I find in clause 3:

"An appeal under sub-section (1) shall be presented within thirty days from the date of the sentence, etc., etc."

In the Criminal Procedure Code, if I remember rightly, 60 days is allowed for an appeal and 90 days for revision,

**An Honourable Member:** Quite the reverse.

**Mr. B. N. Misra:** This is because our people have to come from vast distances and perhaps the people affected or their relations may not have time to travel these long distances and prefer an appeal since they live in out-of-way places and I think if they have to walk, it will take a long time. So this thirty days is, I think, too short a period. This Criminal Procedure Code has been in existence for so many years and people have got accustomed to this period of sixty days for appeal owing to the difficulties of conveyance and other things. We have to consider very carefully this curtailing from sixty to thirty days. It will be extremely difficult for the relations of these men who may be hanged or sentenced to transportation, to come: they may not know at all. From what we know of this terrorist movement, it is not a public movement; and it may not be known to their friends and relatives. In some cases these people are away from their homes and their parents and relations may not know that these so-called crimes have been perpetrated by them and they do not know why or how or what happened or they may come as *amicus curiae* to prefer an appeal or assist in the conduct of the case; but if the period is curtailed to thirty days, how it will be possible for these people to know? These people may have been misled: they may be students in Calcutta and, while reading there in the colleges, somehow or other they may have been caught in this movement or become anarchists. But on nobody's forehead is written that he is an

anarchist. A boy might have been misled or he might have been a good student: but if he is taken for an anarchist, then he comes under this Bill or law . . . .

**Sir Muhammad Yakub:** He will not come under this law.

**Mr. B. N. Misra:** Oh, yes. He will come under this Bengal Suppression of Terrorist Outrages (Supplementary) Bill. As I say, there is no caste or class written on their foreheads, Muhammadan or Hindu, to show that he is such and such a person or an anarchist. Can anybody point out that he is such and such an anarchist merely by looking at him? This is a new definition. You have to spot him: you have to find out whether he is an anarchist or not. I am just now reminded of what happened some 10 or 12 years ago. There was some Sitaramaraju who was doing havoc in Madras—not our Mr. Sitaramaraju who sits in front of me—I am not talking of him: but some 10 or 15 years ago, what happened was this: there was a man called Sitaramaraju and probably there was some misunderstanding between this man and his Police Inspector—this man was a police constable and probably he had a beautiful wife and the Police Inspector cast evil eyes on her and then he appealed to all the authorities to help him; but the authorities never helped him or listened to him and, therefore, the man became convinced that there was no truth or justice in the British Government and, therefore, he became a declared anarchist on account of the folly of the Government and their officers. Some people become anarchists, because they do not get justice and then they come prepared to shoot a man and kill him. That is what we read in the papers. So there must be something wrong for which these people take recourse to this. Instead of the Government employing some C. I. D. officers to find out such acts of folly and stupidity which drive these men to anarchism, they simply want to shoot men and kill them. This Government, being a wise and powerful and big Government, ought to try and find out why these few people—after all they are only a few hundreds or less—go and do this sort of thing. They do not try to find

**4 P.M.** out as to why these people become anarchists. If the Government are really sincere about the matter, such a powerful Government as this Government can very easily find out the causes which lead young men to become anarchists. Instead of trying to find out the real causes, they simply catch hold of some and hang them by calling them anarchists. They do not care to find out the defects and shortcomings of their own subordinate officers like District Magistrates, Police Superintendents and others. Therefore, I feel that the thirty days provided here for preferring an appeal is too small a period. Poor people who suffer at the hands of the police cannot command aeroplanes or special trains. They naturally take a long time to collect the papers and get copies of the documents. You cannot prefer an appeal without getting a copy of the judgment, and I think the Limitation Act provides that time for obtaining a copy of order must be excluded. If you give 30 days' time, I think the High Court will have no powers, because you will be taking away the beneficial powers given under the Limitation Act for obtaining copies and other things. The man concerned may not have money or he may have other difficulties. So the period of 30 days provided here for preferring an appeal is too small and it should be extended.

Then, Sir, in clause 5 of this Bill, it is stated that "Notwithstanding the provisions of the Code, or of any other law for the time being in



[Mr. B. N. Misra.]

force, or of anything having the force of law" and so on. I cannot understand how "anything having the force of law" have the force of law. (Laughter.) It must be made clear by the Honourable the Law Member. I cannot understand how a thing can have the force of law. It is for the Law Member to explain as to what he means by the expression "or of anything having the force of law", how a thing can have the force of law, I cannot understand. (Laughter.) After all, the anarchist movement is not such a movement as the movement of the Law Member and the Home Member (Laughter), and, therefore, I cannot understand what is meant by a thing having the force of law. As I was saying in the beginning that 90 days are allowed for revision in appeal cases . . .

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member is repeating himself,

**Mr. B. N. Misra:** I am merely pointing out the difficulties of the people who will be affected by this measure. Government merely catch hold of some people and hang them; they merely give a dog a bad name and hang it; similarly they catch a man and call him an anarchist.

**An Honourable Member:** How many times have you given this reference?

**Mr. B. N. Misra:** I think my friends are somewhat impatient, and so I shall not be very long,

**An Honourable Member:** No, no.

**Sir Muhammad Yakub:** It is a pleasure to listen to you.

**Mr. B. N. Misra:** Sir, I support the motion of my friend, Mr. Mitra, for circulation.

**Major Nawab Ahmad Nawaz Khan** (Nominated Non-Official): Sir, as I like the people of Bengal and their province, so I have great sympathy for them. I am really sorry to find that the terrorists are sucking the blood of the Bengalis, and destroying the prosperity and peace in Bengal. I am surprised to see that while some Honourable Members admit that they are against the terrorist movement, yet they generally try to oppose any measure which is brought forward in this House to check the terrorist activities. I cannot understand this kind of mentality. I come from a province where plain speaking is considered to be much better than hypocrisy. I would have appreciated the force of the arguments of my Honourable friends if they had stood up and said that the terrorist movement was a very good thing and that it was useful politically in the interests of India, and then they could have advanced any arguments against any measure brought before this House; but I cannot understand how when in one moment they say that they are opposed to the terrorist movement but, in another moment, many of them directly support that movement by putting forward lots of amendments in order to make the Bill ineffective or by providing so many loopholes under many excuses and generally in the name of curtailing the powers of the

High Court, and sometimes complaining about the police and so make the mask of their arguments so thin that any sensible man can understand what is behind the mind of those who resort to putting forward these amendments and many other objections. No reasonable man in this House can believe that our able Law Member is against the powers of the High Court . . . .

**An Honourable Member:** Of Calcutta.

**Major Nawab Ahmad Nawaz Khan:** . . . . not only of Calcutta, but of any High Court. He is an eminent lawyer. He has been brought up in that atmosphere. Therefore, it is hardly fair for people with lesser experience and having much less legal knowledge, with much less patriotism to say that the Law Member is for the curtailment of the powers of the High Courts, or that he is doing a lot of injustice to the Bengalees or he is going to ruin his province.

**An Honourable Member** He is a Bengal man.

**Major Nawab Ahmad Nawaz Khan:** That fact is too well known to every body here. The difference only is this. He holds a position of responsibility for maintaining law and order. He treats everything equally whether the law and order is broken by a Hindu, or by a Muslim, or a Sikh or anybody else. But those, who have not got the responsibility at all and have got a different atmosphere in which to move, have to please their constituencies, they have to look to their future votes in the elections. They have to show to the public how gallantly they have fought against the Government for them. I do not blame them for it, because that is the only proper channel for them to show their work to the public. But, after all, we have a greater duty than that. If we go on directly or indirectly supporting the terrorist movement, what would be the result? Do the Honourable Members think that any Government will leave the country into the hands of the terrorists? No Government on earth can or will do that. It is wrong to think so, if one thinks why all the previous measures have not been very successful against the terrorists. The cause of their failure was because those measures were weak, and if the present measure does not succeed, it means it is not quite sufficiently strong. If the opposition becomes stronger, the Government have to become stronger still. If Honourable Members ask that this Bill should be given up, let them suggest a better and stronger measure for eradicating this evil, but it is no use saying, be lenient, be lenient, be lenient. We have seen the results of that policy in Lord Irwin's time. He went to the extreme limits of leniency, but terrorism did not stop. It grew more and more. It is no pleasure to tease somebody or ruin some class of His Majesty's subjects that the Home Member or the Law Member brings up such a measure as this. It has been forced on them. It is not a pleasure for the doctor to cut out a limb of his patient. He does it only when according to the medical science he feels that he must cut out the limb in order to save the life of the man. We have to make the executive strong enough to stop the terrorist activities.

I see one point always stressed by the lawyers about the powers of the High Courts. I must tell them that the maintenance of law and order does not only depend upon the High Court; it depends much more upon the executive, and the two arms of the executive are the military and the police. For instance, if a judge passes an order, it will have to be enforced by the executive. You may have 3,000 first class good judges of High Courts, but

[Major Nawab Ahmad Nawaz Khan.]

will they go to every town and every village and every street to enforce their orders? Sir, the Government is just like a human machinery. You do not like a good brain without a good stomach.

**An Honourable Member:** Cut off the head. :

**Major Nawab Ahmad Nawaz Khan:** Those persons who do not wish to see a strong Government—let them commit suicide, so much the better. Truly speaking, it is not the Government that are bringing this measure; it is the terrorists themselves who are courting such measures. If terrorism becomes more strong, then Government will be compelled to bring in stronger measures to combat that. (*An Honourable Member:* "What can you think of stronger than this?") (*Another Honourable Member:* "Martial Law.") Whatever that may be, it depends upon the necessity and the occasion, and the judgment of that rests with the Government and not with irresponsible people. Sir, the present measure is a very useful one for eradicating the evil of terrorism from the province of Bengal. Therefore, I wish to support the Bill and oppose the amendments.

**Mr. C. S. Ranga Iyer** (Rohilkund and Kumaon Divisions: Non-Muhammadan Rural): I do not propose to go at this stage into the labyrinthine intricacies of legal arguments. The Honourable gentleman who just concluded his speech made a reference to a responsible Government and to an "irresponsible", he did not say, Opposition, but that is perhaps what he meant. All we are concerned with here is to put up a fight, as I believe every Opposition in every Parliament is entitled to put up a fight, against the invasion by Government of certain legal rights which have been enjoyed hitherto. I do not for a moment deny that the more spacious discussion on the wider issues have taken place in the Provincial Council, but the responsibility for widening the field of discussion here rests entirely with the Honourable the Mover of this Bill himself who need not unnecessarily have dragged us over a wider range. He could have confined himself to the legal issue and left the terrorists alone. No one on this side of the House is in sympathy with terror. Everybody wants to extirpate terror, but when you want to extirpate terror, you need not at the same time attempt the extirpation of certain of the legal proceedings which have been in practice hitherto. But that controversy would rage at a later stage when clause 5 of the Bill is taken up which excludes the interference of Courts with proceedings under the Local Act. I do not believe the Honourable gentlemen who have moved the amendments in regard to circulation, whether by referring it to the High Courts, as my Honourable friend, Mr. Mitra, wanted, or circulating it in the sense in which my Honourable friend, Mr. Sen, wanted—I do not believe that they would press those amendments to a division, for after the observations made by Mr. S. C. Sen, it is pretty clear that such a pressing of the amendments to a division would become superfluous. We admit that clause 3 of the Bill is a salutary one. Nobody on this side of the House has objected to clause 3. As pointed out in the Notes on Clauses, this clause now supplements certain provisions by providing for appeal to the High Court in all cases in the Presidency-town of Calcutta where there is no Court of Session, and for appeals in the mufassil in the more serious cases. But our controversy would be when clause 5 of the Bill is taken up, which I believe will be pressed to a division. With these few words I conclude my observations. )

**Some Honourable Members:** Let the question be now put.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): I accept the closure. The question is that the question be now put.

The motion was adopted.

**The Honourable Mr. H. G. Haig:** Sir, I need not delay the House by arguing at any length the question of the amendments that have been put forward for circulation of the Bill. I have the great advantage of having support for my view from both sides of the House. My Honourable friend, Mr. Anklesaria, argued very effectively that there was no necessity and no advantage in circulating this Bill to High Courts and it has been admitted frankly on the other side by my Honourable friend, Mr. Sen, and just now by the Honourable the Deputy Leader of the Nationalist Party that in fact it would serve no useful purpose. The powers which the Bengal Suppression of Terrorist Outrages Act is replacing come to an end at the end of this year and, therefore, the supplementary powers which we require for the Bengal Suppression of Terrorist Outrages Act are required by the end of this year. It is quite obvious that no motion for circulation would meet those conditions, and that the further discussion of this Bill would have to be prolonged far into the next Session. !

It is also unnecessary for me, I think, to deal with certain suggestions that were made at an earlier stage of the debate which, I must confess I did not quite understand, that this measure curtailed or interfered with the right of appeal. As my Honourable friend, Mr. Ranga Iyer, has just now pointed out to the House, the measure on the contrary provides an appeal which otherwise would not be possible, namely, an appeal to the High Court. I must, however, say something about the speech delivered this morning by Pandit Satyendra Nath Sen. I think that the Honourable Member endeavoured both to minimise the activities of the terrorists and to suggest that the Government were responsible for such activities as did take place. His first saying was that Government smell terrorism everywhere. Well, Sir, I think the Honourable Member must be deficient not only in the sense of smell, but in all the five senses if he is not aware of the long catalogue of outrages which have characterised the terrorist movement. It is no question of the Government's smelling terrorism, but terrorism obtrudes itself upon the attention of every reasonable person. Apparently, however, it does not obtrude itself on the attention of the Honourable Member. So indifferent is he to the activities of the terrorists that he was actually under the impression that the shocking outrage at Pahartali involved no casualty. I have looked up the facts. Actually on that occasion one woman was killed, ten persons were seriously injured, three of them being women and seven men, and three others were slightly injured. And yet that outrage had apparently escaped the notice of the Honourable Member. He assured us at the beginning of his speech that he had no sympathy with terrorism. I think, Sir, it needs no assurance to show us that he has no sympathy with the victims of terrorism. Then, Sir, his second statement was that terrorism begets terrorism and by that he apparently intended to indicate that it was only the actions of Government which drove the terrorists to these outrages. That, Sir, appears to me to be an amazing inversion of the facts and I should like to illustrate that by an example, which he himself gave, the chain of incidents that happened at Chittagong. The first was a very daring and effective raid which was made in April, 1930, by a large band of revolutionaries on the armoury at Chittagong. It was made at

[Mr. H. G. Haig.]

a time when the Government of Bengal had recently allowed part of their special powers against the terrorists to lapse. It was made within a month of the lapsing of those powers. Surely the Honourable Member does not suggest that this was done in retaliation for action taken by the Government. And then we come on, in August, 1931, to certain deplorable events on which the Honourable Member has laid great stress. There were certain excesses committed. That has been admitted by the Government and the Government have no wish to condone them. But, again, what led up to that? It is well known that a very popular Police Inspector, Inspector Asanullah, was brutally murdered at a football match and that was too much for the discipline of some of the officers of Government. Then, in September, 1932, came this Pahartali outrage. Does the Honourable Member really suggest that that was in retaliation for what happened at Chittagong over a year before in August, 1931? Once the facts are examined, the theory breaks down completely.

Now, Sir, I pass on to the observations of my Honourable friend, Mr. Sen. He gave us a long history of the terrorist movement and the lesson he sought to draw was that the length of that movement proved that our methods had not been successful and that we must seek new methods. My answer is this. Those methods have at any rate kept the terrorist movement within bounds and there have been times when it has practically ceased. As I read the history of that movement, what has happened is that whenever the precautions have been relaxed, the movement has revived. That was markedly the case in the years immediately preceding that outrage in Chittagong which I just mentioned in 1930, from which point the present revival of the terrorist movement may be dated. For some two or three years before that, the action of Government had been steadily and deliberately relaxed and, just when that policy was very nearly completed, came this big revival of the terrorist movement. That, Sir, may suggest to the House that we cannot afford to relax our precautions. And, after all, what other remedy is there? The Honourable Member attempted to suggest something. He said, "why not have an inquiry, why not have another Rowlatt Committee?" But, Sir, the work of inquiry has already been done by that very Rowlatt Committee. That was precisely why the Rowlatt Committee was appointed. They went most elaborately into the causes and the mentality, as well as the remedies for that terrorist movement, and actually our present policy is based on the recommendations of the Rowlatt Committee. The Honourable Member finally was driven to state what I cannot help looking upon as very insignificant and inadequate causes to account for this terrorist movement. He suggested three things, I think, the removal of which might bring it to an end or bring about an improvement. One was that Government should not consider its prestige. Does the Honourable Member really consider it a matter of prestige that Government should take action when its officers are murdered? Then the second was that we should separate the Executive and the Judicial. Well, I find it difficult to believe that the terrorists are interested in such matters as the separation of the judicial and the executive functions. Their minds move on much wider lines. They think, if I may say so, far more vigorously than the Honourable Member who puts forward these suggestions. They have a wider ambition. They are not going to be satisfied with the separation of the Judicial from the Executive. In the third place, I think my Honourable

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friend suggested that if a particular officer of Government were not in his place, the terrorists would be placated. Well, Sir, the reputation of Mr. Prentice requires no defence. But I would suggest to my Honourable friend that those again are not the kind of causes of this terrorist movement. We have to go far deeper than that. These men are, in fact, devoted to their cause, wrongly devoted to their cause no doubt, but they are, as far as I can judge, deeply devoted to their cause, and it is a matter of great difficulty, and I am afraid it will be question of a very long period before we can root out this terrorist movement and this terrorist mentality. Now, the Bengal Council, who knew the facts, passed this Bill by a large majority. We are not really sitting in judgment on what they did. We are merely discussing a small measure which supplements theirs. Sir, this terrorism is a poisonous growth which must be rooted out, and we are bound to give the Government of Bengal all the assistance they require in rooting it out. (Loud Applause.)

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 31st of January, 1933."

The motion was negatived.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That the Bill be circulated for the purpose of eliciting opinion of the various High Courts in India by the end of December, 1932."

The motion was negatived.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That the Bill to supplement the Bengal Suppression of Terrorist Outrages Act, 1932, be taken into consideration."

The motion was adopted.

(Clauses 2 and 3 were added to the Bill.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That clause 4 do stand part of the Bill."

Mr. Sen.

**Mr. S. O. Sen:** Sir, I move:

"That clause 4 of the Bill be omitted."

The Bengal Government have adopted section 19 of the Bengal Act. Now, if their adoption is valid and within their power, I do not see why we should interfere with that. If, however, that is beyond their power,

[Mr. S. C. Sen.]

I do not see why we should validate the same. Now, what is the power conferred by section 19:

"Except as provided in this Chapter, no proceeding or order purporting to be taken or made under this Chapter shall be called in question by a Court and no civil or criminal proceedings shall be instituted against any person for any act in good faith done or intended to be done under this Chapter."

Sir, this provision gives an indemnity to the Government officials mentioned in the Act from all consequences of their action whether they may be excesses or *ultra vires*. The Honourable the Home Member, when introducing the Ordinance Bill, I think, admitted that there were certain cases of excesses, and with regard to the catalogue of excesses which were put forward before him by some of the speakers on that occasion, he told the House that he also had treasured extracts from other sources to show that excesses had been committed by the people also. I fully admit that, Sir, but the excesses committed by the people are to be punished and were punished, but what about the excesses committed by his own Department, by the police or by other Government officials? Has any action been taken against them, or is there any possibility of any action being taken against them? I admit, there have been excesses committed by the people, and such excesses have been or are liable to be punished, but what about the punishment of officials who, as the Honourable the Home Member himself admitted, had also committed excesses? That is the point which goes to the root of this clause. If you have a clause like this on the Statute, it is a sort of a premium for the subordinate officials to go wrong. They know that they cannot be hauled up; they cannot be punished in a Court of law and, therefore, they act with a sense of irresponsibility which is very peculiar in this country. My friend, Mr. Mitra, quoted the other day certain excesses committed by the punitive police at Midnapore. I do not think the Honourable the Home Member was cognizant of those excesses nor could he deny them. All the same, I would ask him what steps have Government taken in connection with those excesses? Were those men punished? No. The Government keep their mind open and never look at these things. If you have a clause like this, it is bound to re-act on the Government themselves. Moreover, a provision like this was in the Ordinance and, since then, certain safeguards have been added to the Bengal Act. What about those safeguards? If they are not acted upon and if they are disregarded by the executive, what would happen? Nobody can take action against the police and those persons who wilfully disregard these safeguards? Sir, I will mention the clauses in which such Act was not in the Ordinance:

"Provided also that the land or building—

- (a) shall not be so utilised as to wound the religious feelings of the owner or of the persons who were in occupation when possession was taken; and
- (b) shall not, as far as practicable, be so utilized as to interfere with access to any place of worship situated in or contiguous to the land or building."

Supposing this safeguard, which was put by the Bengal Council, was disregarded by the District Magistrate or by his subordinates, what would happen then? May I ask the Honourable the Home Member if there is any remedy for the owner to ventilate his grievance and, if so, where?

Section 19 debars his taking any action. Then, again, Sir, I would refer the Honourable the Home Member to the proviso to section 11:

"Provided that before passing any order under this section, the District Magistrate shall satisfy himself that such order is not of a harassing or humiliating nature or incompatible with the ability or position in life of the person concerned."

That is a very important proviso. We have known of cases during the Partition days when respectable zamindars were made special constables. Even now, if I remember aright, some of the respectable pleaders of Noakhali were appointed special constables for the purpose of accompanying a postal peon from door to door. That was the order given by the District Magistrate of Comilla and, if I remember aright, similar orders were passed also on certain respective inhabitants in some other parts of the country. To avoid all those difficulties, this clause has been added. Now, supposing the District Magistrate is to disregard this clause, where is the man to go to? Of course, under the Criminal Procedure Code, when a person is appointed a special constable, the man can go before the High Court and that was done during the Partition days. But now you are debarring the High Court also from taking any cognizance of such a matter as this. How is that to be remedied? I appeal to the Honourable the Home Member to consider this matter and then to say what remedy that man has. He will say: the District Magistrate cannot do all these things. I know the Civil Service is considered to be infallible—next to God it is infallible—but we do not believe that. Then, Sir, section 14 also provides for safeguards. There it is said:

"If any person disobeys or neglects to comply with an order made, direction given, or condition prescribed, in accordance with the provisions of this Chapter, the authority, which made the order, gave the direction or prescribed the condition, may take or cause to be taken such action as it thinks necessary to give effect thereto, but shall not in any case inflict more harm than is necessary for such purpose."

Supposing more harm is done, what would be the remedy? Of course, it is a very debatable point whether more harm has been done or not, but there is such a thing also in the Indian Penal Code as regards private defence by a person and it is there stated that he shall not use more force than is necessary. Here also he cannot do more harm than is necessary. I know of cases in Calcutta where, because the inmates of the house were sleeping, the police got on to the top and broke all the sashes that they could find. Sir, what is the remedy which the Home Member suggests, should be given to the man if these safeguards are not complied with? Then, Sir, I come to clause 15, the proviso of which is very important. It says:

"The Local Government may exempt any person or class or section of such inhabitants from liability to pay any portion of such fine:

Provided that such exemption shall not be based upon communal or racial considerations."

This clause is very very important. Supposing that is done, what is the remedy? I would ask the Honourable the Home Member to tell me if there is any remedy open to me to protest against that order? None whatever. I will also ask the Home Member in all seriousness whether he considers that such a section should be on the Statute-book at all? Sir, the Honourable the Home Member's objection to the interference by Civil



[Mr. S. C. Sen.]

Courts is, as stated by him at the time when he introduced the Bill, as follows:

"The next provision, clause 4, extends the effect of section 19 of the local Act. The Bengal Council, in passing their Act, felt it necessary to provide that orders made under the emergency powers which are conferred by the first part of the Act should not be called in question by any Court, and I think it is obvious that if these powers are to be effective, they cannot be made subject to injunctions of the Courts."

I do not know in what sense the word "injunctions" has been used by the Home Member. Does he mean the legal injunction, an injunction issued by a Court to restrain a public officer from doing certain things which under this Act he is authorised to do? If that is so, I do not think that his apprehension has any value whatever. These are all executive actions provided for in this section and, as pointed out by the Honourable the Law Member, the other day, from the judgment of Sir Lawrence Jenkins, no Court can interfere with executive actions of an executive officer. Sir, under these circumstances, I submit, that a provision like this is contrary to morality, contrary to law and contrary to commonsense. I move my amendment.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Amendment moved:

"That clause 4 of the Bill be omitted."

**The Honourable Sir Brojendra Mitter**: Sir, my Honourable friend, Mr. Sen, addressed this House as if clause 19 of the Bengal Act were before this House, and all his arguments were addressed to that point. I shall show presently that his argument would lead to an anomaly. Section 19 we cannot touch, because it has been passed by the Bengal Council . . .

**Mr. S. C. Sen**: But we can refuse to validate.

**The Honourable Sir Brojendra Mitter**: What is the effect of section 19? The effect is that if any cause of action arises in the districts, then, by virtue of section 19, there is no remedy. I put it baldly like that.

**Mr. S. C. Sen**: I fully appreciate that.

**The Honourable Sir Brojendra Mitter**: If all the cases, which my friend cited, arose in the districts, then, as it is, there is no remedy. My friend asks, if the safeguards under section 4 or 11 or 15 were disregarded, what answer has the Home Member? What remedy is there? After the passing of the Bengal Act, if the acts were done in good faith, there is no remedy so far as the districts are concerned. We are not doing anything here to shut out remedy which is otherwise available. What we are at present doing is this: we are extending section 19 to the town of Calcutta: that is all. Section 19 bars the jurisdiction of Civil Courts. It is an indemnity section providing that no proceeding or action shall lie against an officer acting in good faith. My friend all the time ignored those significant words in section 19—the action must be in good faith. If the action be not in good faith, the protection under section 19 is not available. If the protection, which section 19 gives to the officers in the districts, be not extended to officers in the Presidency-town of Calcutta, then, if the cause of action arose in Calcutta, a suit or proceeding would lie in the High Court. The Local

Council had no jurisdiction to deal with the matter; and that is stated in the Statement of Objects and Reasons:

"Section 19 of the Local Act (Bar of jurisdiction in certain matters) cannot affect the jurisdiction of the High Court. This clause of the Bill extends the bar of jurisdiction to the High Court also."

To my friend's illustrations as regards the disregard of safeguards or excesses by the police and so on, my short answer is this, that if the act is not done in good faith there is no protection. All remedies under the ordinary law are available to the aggrieved person. If the act is done in good faith, section 19 gives protection in the districts; and clause 4 purports to extend that protection to officers in Calcutta. Sir, I oppose the amendment.

**Pandit Satyendra Nath Sen:** Sir, perhaps being a layman I failed to catch the exact import of this mystic clause. It has now been made clear by the Honourable the Law Member that this Bill provides some remedy so far as Calcutta is concerned: for the district there is absolutely no remedy. In other words, they rest entirely on the mercy of the police. When we remember that there are reactionary papers in this country, like the *Statesman* conducted by my Honourable friend, Mr. Arthur Moore, we have reasons to believe that the police may be encouraged in acts of violence in some cases. I shall only present this House with . . .

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Has the Honourable Member realised what the issue before the House is?

**Pandit Satyendra Nath Sen:** Yes, Sir.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): What is it?

**Pandit Satyendra Nath Sen:** I find that these are meant to be executive acts . . . .

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): That is what the Chair thought: the Honourable Member has not realised the real issue before the House. The Bengal Council has given indemnity for acts throughout the whole of Bengal. This clause proposes to extend that indemnity to the town of Calcutta. That is the issue, and if the Honourable Member has anything to say on that issue, objecting to its extension to Calcutta, or anything of that kind, he would be relevant, not otherwise.

**Pandit Satyendra Nath Sen:** Yes; my point is that these acts are extended to Calcutta also . . . .

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Proposed to be extended.

**Pandit Satyendra Nath Sen:** . . . . and so far as Calcutta is concerned, these acts are to be regarded as executive acts and there is no remedy. We have read about the divine right of kings, but we have not yet heard about the divine right of the police or of the Magistrate. This amounts to saying that the police can do no wrong. In the circumstances, I think the original Act is most atrocious and what this clause wants to do is to extend that Act to Calcutta also. Therefore, I want to omit this clause.

**Mr. S. C. Mitra:** Sir, Mr. Sen in his very lucid speech gave all the arguments for the deletion of this clause. In reply to him all that I could understand the Law Member to say is that because the Government of India think that the Local Government had no power to enact such a law for the City of Calcutta, it is required to have it passed by this House. Now, putting his argument at the highest, it is said because some law for which we have heard no explanation has been enacted for the rest of the province—why, such a law may be immoral, there may not be any justification for it to be extended to the City of Calcutta . . . .

**The Honourable Sir Brojendra Mitter:** I emphasised good faith.

**Mr. S. C. Mitra:** My argument is that Mr. Sen narrated several cases, provision for which has been made in the Bengal Act itself. If those things are not adhered to or not followed by officers, what are the remedies of the aggrieved party? To that question I think the Honourable the Law Member has not replied. He merely said that if a man does anything in good faith, he is justified to do any kind of wrong; he can forfeit a man's property; he can search or detain a man wrongly; he need not follow the rules embodied by Government in their own laws; he can ride rough shod over everything, provided there is the one element of good faith; and that is the reason why we said earlier in this debate that this law was even worse than martial law. There is a law of indemnity passed later on and officers know that they run a risk before the law of indemnity is passed where the whole question may be discussed. Here, before we enact a law, we tack it with indemnity clauses thus making the people reckless. They have only to say that they did it in good faith, and then the jurisdiction of the Courts, both civil and criminal, is ousted . . . .

**The Honourable Sir Brojendra Mitter:** Mere assertion of good faith will not do; it must be good faith.

**Mr. S. C. Mitra:** My difficulty is this. The Courts will hold, this being an executive order under the law, they have no jurisdiction. If they enter into the merits of the case, then only the question of good faith will arise. As a matter of practice, the Courts will be unwilling, under the provisions of this Bill, even to entertain any such application whether it is in the nature of a civil or criminal remedy. That is the reason why, though we cannot go into the merits of the Act passed by the Bengal Council, we should not, with our eyes open, extend it to the City of Calcutta, even though it has no justification on its own strength. For these reasons I support Mr. Sen's amendment.

**The Honourable Mr. H. G. Haig:** My Honourable colleague, the Law Member, has clearly explained the practical effect of this provision, and I do not think I need add anything to what he said. I would merely say this with reference to what my friend, Mr. Sen, has said. He gave, as an illustration of his argument, the proviso to section 11:

"Provided that before passing any order under this section, the District Magistrate shall satisfy himself that such order is not of a harassing or humiliating nature . . . ."

That, I think, affords a good example of a case in which one cannot really, if these provisions are to be effective at all, allow a Civil Court to hold an inquiry which might extend over six weeks or two months as to whether a proposed order was of a humiliating nature or not, because in the meantime the executive will be paralysed. It seems to me, Sir, it will be impossible in the case of executive orders of this character which are, I would remind the House, intended to meet very special conditions and only applied in particular areas where the terrorist movement is particularly active, it is, to my mind, impossible in the case of executive orders of this kind, to allow references and long arguments before Civil Courts.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question which I have now to put is:

"That clause 4 of the Bill be omitted."

The motion was negatived.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That clause 4 do stand part of the Bill."

The motion was adopted.

Clause 4 was added to the Bill.

The Assembly then adjourned till Eleven of the Clock on Wednesday, the 14th December, 1932.



# LEGISLATIVE ASSEMBLY.

*Wednesday, 14th December, 1932.*

The Assembly met in the Assembly Chamber of the Council House at Eleven of the Clock, Mr. President (The Honourable Sir Ibrahim Rahimtoola) in the Chair.

## QUESTIONS AND ANSWERS.

### COMBINATION OF CERTAIN COMPANIES DEALING IN PETROL.

1664. **\*Mr. S. C. Mitra** (on behalf of Sardar Sant Singh): Are Government aware that Burma Shell is a combination of the Burma Oil Co., and the Asiatic Petroleum Co., who represent the Royal Dutch or Shell Group and are drawing all their supplies of kerosene oil from Burma? If so, is it a fact that the difference in duty and excise is one anna per gallon? Are Government aware that they are losing in customs one anna per gallon in all business which should have been Asiatic Petroleum Company's?

**The Honourable Sir George Schuster:** The Government are aware that the Burma Shell Oil Storage and Distributing Company of India took over the marketing organisations in India of the Burma Oil Company, and the Asiatic Petroleum Company (India), which latter had previously been the marketing organisation of the Royal Dutch-Shell Group; but they have no information on the question whether the Burma Shell Company is drawing all its supplies of kerosene oil from Burma.

I do not follow the purport of the Honourable Member's other questions. It is only natural that India's consumption of kerosene should be largely met from supplies produced in India and which therefore have only paid the excise duty. I do not see how this can be described as a loss, nor how the agency, through which the kerosene is sold, affects the position.

The difference between the rate of excise duty and that of customs duty on kerosene is  $11\frac{1}{2}$  pies, not 1 anna. }

### PRICES OF KEROSENE AND PETROL.

1665. **\*Mr. S. C. Mitra** (on behalf of Sardar Sant Singh): Are Government aware that the prices of kerosene and petrol have been brought down only in such places where new Indian companies (National Petroleum Co., and the Western India Oil Distributing Co.) have placed their products in the market? Are Government also aware that the prices in other places have in certain cases gone up?

**The Honourable Sir Joseph Bhoré:** The Government of India are not in possession of complete information on the subject.

## PRICE OF PETROL IN INDIA.

1666. **\*Mr. S. C. Mitra** (on behalf of Sardar Sant Singh): Is it a fact that the price of petrol was raised by six pies by all petrol companies 15 days before the arrival of the Western India Oil Distributing Co.'s first consignment? Do Government propose to inquire into the causes that led to the raising of the prices throughout India and will Government lay the result of their investigation on the table of this House?

**The Honourable Sir Joseph Bhoré**: The answer to the first part of the question is in the affirmative. As regards the second part, the reply is in the negative.

## ANNUAL DIVIDEND DECLARED BY CERTAIN OIL COMPANIES.

1667. **\*Mr. S. C. Mitra** (on behalf of Sardar Sant Singh): Are Government aware of the annual dividend declared by the Burma Oil Co., Standard Oil Co., Shell Group and the I. B. P. during the years 1929, 1930 and 1931? If so, will Government kindly state the same?

**The Honourable Sir Joseph Bhoré**: I lay on the table a statement showing the information asked for by the Honourable Member so far as it is available.

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*Statement showing the dividend declared by certain Oil Companies during the years 1929, 1930 and 1931.*

Name of Company.	Year.	Dividend.
Burma Oil Co., Ltd. . . . .	1929	30%
	1930	22½%
	1931	17½%
Standard Oil Co. (New Jersey) . . . .	1929	7½%
	1930	8%
	1931	Not available.
Royal Dutch . . . . .	1929	24%
	1930	17%
	1931	6%
I. P. B. . . . .	Not available.	

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## COMBINATION OF CERTAIN COMPANIES DEALING IN PETROL.

1668. **\*Mr. S. C. Mitra** (on behalf of Sardar Sant Singh): Have Government commenced investigation into the question whether the oil companies have a combine or not as promised by them in reply to my starred question No. 159 of the 8th September, 1932? If so, when is the inquiry likely to be completed?

**The Honourable Sir Joseph Bhoré**: Yes; an inquiry is being made but it is not possible to state by what date it will be completed.

PRICE OF PETROL IN INDIA.

1669. **\*Mr. S. O. Mitra** (on behalf of Sardar Sant Singh): (a) Are Government aware that Russian petrol arrives *c. i. f.* in Indian ports at 0-2-9 per gallon, and the duty being 0-10-0 per gallon, the cost price would be 0-12-9 per gallon? Do Government propose to make inquiries if it is so?

(b) If the result of the inquiry confirms the above price, are Government prepared to take measures to control the price of petrol at about Rs. 1-2-0 per gallon at the main ports leaving a substantial margin of profits for the company, besides dealers' commission?

(c) Are Government prepared to control the price of kerosene on the same basis as above in order to relieve the poor consumer?

**The Honourable Sir Joseph Bhoré:** (a) The Government of India understand that the price of Russian petrol in Indian ports is said to be 2 annas 9 pies per gallon *c. i. f.* They have no definite information in the matter and do not consider that it would be possible to verify by enquiry whether this is an economic price.

(b) and (c). No.

RAILWAY MAIL SERVICE DIVISIONS OF THE POSTS AND TELEGRAPHS DEPARTMENT.

1670. **\*Mr. S. O. Mitra** (on behalf of Seth Haji Abdoola Haroon): (a) Will Government be pleased to state how many Divisions there are in the Railway Mail Service branch in the Posts and Telegraphs Department?

(b) Is it a fact that the gradation list of the Railway Mail Service is entirely separate from the Post Office and promotions, etc., are made in each branch separately?

(c) Is it a fact that all the Railway Mail Service Divisions in India are in the charge of Non-Muslim Superintendents, almost all of whom are Hindus?

(d) If so, are Government prepared to issue immediate orders to the effect that at least one Railway Mail Service Division in each Circle should be placed in charge of a Muslim Superintendent?

**The Honourable Sir Frank Noyce:** (a) 15. †

(b) Yes; but the Gradation List does not include the posts of Superintendents of the Railway Mail Service who are on the same list as Superintendents of the Post Office. †

(c) Yes. .

(d) Government are not prepared to take the action suggested since as has been frequently pointed out such postings are not made solely on communal considerations.

POSTING OF MUSLIM SUPERINTENDENTS TO CERTAIN RAILWAY MAIL SERVICE DIVISIONS.

1671. **\*Mr. S. O. Mitra** (on behalf of Seth Haji Abdoola Haroon): (a) Is it a fact that the Railway Mail Service "A" and "D" Divisions have always had Hindu Superintendents and that the Muslims have been asking that they should have a Muslim Superintendent? Similarly, are Government aware that the "J" Division had a Hindu Superintendent for years together?



(b) Are Government prepared to post Muslim Superintendents to these Divisions immediately?

**The Honourable Sir Frank Noyce:** (a) As regards the first part of the question, the facts are not as stated by the Honourable Member nor are Government able to trace any representations from Muslims on the subject.

As regards the second part, during the last 11 years the 'J' Division has been in charge of Hindu Superintendents for six years and of a Muslim Superintendent for five years. It is now in charge of an Anglo-Indian.

(b) No, since as has been frequently explained such postings are not made solely on a communal basis.

#### APPOINTMENT OF A MUSLIM AS ASSISTANT DIRECTOR IN THE SIND AND BALUCHISTAN POSTAL CIRCLE.

1672. **\*Mr. S. C. Mitra** (on behalf of Seth Haji Abdoola Haroon): (a) Is it a fact that the Director and the Assistant Director as also the only two first class Postmasters with the Assistants in the Sind and Baluchistan Circle are all Hindus?

(b) Are Government aware that this has caused great apprehension in the minds of the Muslim subordinates and there is great unrest?

(c) Are Government aware that as matters stand at present there is no chance of a Muslim ever becoming a Director in the Sind and Baluchistan Circle?

(d) If so, are Government prepared to direct that the Assistant Director in Sind and Baluchistan Circle should always be a Muslim?

**The Honourable Sir Frank Noyce:** (a) Yes.

(b) Government have received some representations on the subject.

(c) No; though it is unlikely for some time yet.

(d) No. I would remind the Honourable Member that such postings are not made solely on communal considerations.

#### POLICY IN REGARD TO THE APPOINTMENT OF THE MEMBERS OF VARIOUS COMMUNITIES TO THE SUBORDINATE ACCOUNTS SERVICE.

1673. **\*Mr. S. C. Mitra** (on behalf of Seth Haji Abdoola Haroon): (a) Will Government be pleased to state their policy in regard to the appointment of the members of the various communities to the Subordinate Accounts Service in the different Accounts and Audit Offices in India with reference to the orders issued in Government of India, Home Department, Memo. No. F.-176/25-Est., dated the 5th February, 1926, regarding the recruitment of members of minority communities?

(b) Is it a fact that in some of the Accounts and Audit Offices in India, clerks belonging to majority communities, some of whom even failed to pass the Subordinate Accounts Service examination previously, have been appointed against permanent vacancies accruing after the issue of the Home Department Memo. of 1926, when passed candidates from minority communities were available?

**The Honourable Sir George Schuster:** With your permission, Sir, I will deal with questions Nos. 1673 to 1678 together.

Enquiry is being made and complete replies will be laid on the table in due course.

**MUSLIM SUPERINTENDENTS IN THE SUBORDINATE ACCOUNTS SERVICE.**

†1674. **\*Mr. S. C. Mitra** (on behalf of Seth Haji Abdoola Haroon):

(a) Is it a fact that either there are no Muslim Subordinate Accounts Service passed Superintendents in most of the Accounts Offices in India or the number of such Superintendents in one or two offices is considerably very small as compared with the total number of sanctioned posts in the offices concerned?

(b) If so, will Government be pleased to state how the vacancies occurring in the cadre of the said service in the various Accounts and Audit Offices in India, since the issue of the orders of the Government of India mentioned in the preceding question, were filled in and also what steps, if any, were taken to appoint Muslims to the vacancies reserved for them in pursuance of the said orders?

(c) What action do the Government of India propose to take to remedy the grave omissions in the past, if any?

**DEPARTMENTAL PROMOTIONS TO THE SUBORDINATE ACCOUNTS SERVICE.**

†1675. **\*Mr. S. C. Mitra** (on behalf of Seth Haji Abdoola Haroon):

Are Government aware that appointment to the Subordinate Accounts Service has been declared by the Auditor General to be departmental promotion for the purposes of the orders of the Government of India regarding recruitment of minority communities, and that this has affected adversely the members of the minority communities who have passed the Subordinate Accounts Service examination inasmuch as they are, in consequence of the said decision of the Auditor General, deprived of the preferential treatment allowed by the orders of the Government of India mentioned above?

**APPOINTMENTS TO THE POSTS OF DIVISIONAL ACCOUNTANTS.**

†1676. **\*Mr. S. C. Mitra** (on behalf of Seth Haji Abdoola Haroon):

(a) Are Government aware that appointment to the posts of Divisional Accountants (who are also under the control of the Provincial Accountants General) was previously considered as departmental promotion for purposes of the minority community rules, but the Auditor General decided in the year 1930 that the said appointments should not be so considered and that the orders of the Government of India regarding the protection of the interests of minority communities should be observed separately in respect of that cadre?

(b) Will Government kindly state what justification there is for the differential treatment in the case of the Subordinate Accounts Service and the Divisional Accountants cadres so far as the application of minority community rules is concerned?

(c) Are the Government of India prepared to direct that appointments to the Subordinate Accounts Service should not be treated as departmental promotions for purposes of the minority community rules?

(d) If not, are Government prepared to issue orders to remain in force for such time as the communal inequalities in respect of the Subordinate Accounts Service in the different Accounts and Audit Offices are not redressed?

**DEARTH OF MUSLIM CLERKS IN THE ESTABLISHMENT SECTIONS OF THE ACCOUNTS AND AUDIT OFFICES IN INDIA.**

†1677. **\*Mr. S. C. Mitra** (on behalf of Seth Haji Abdoola Haroon):

(a) Is it a fact that there is a dearth of Muhammadan clerks in the establishment sections of the Accounts and Audit Offices in India?

(b) Is it a fact that no Muhammadan has ever been allowed an advanced increment in any Accountant General's Office in India? If so, why?

**FILLING UP OF VACANCIES IN THE CLERICAL ESTABLISHMENT IN THE OFFICE OF THE ACCOUNTANT GENERAL, UNITED PROVINCES.**

†1678. **\*Mr. S. C. Mitra** (on behalf of Seth Haji Abdoola Haroon): How is it proposed to fill up the vacancies in the clerical establishment of the Accountant General's Office, United Provinces, reserved for the members of the minority communities? Are not the members of these communities available from the men retrenched as a result of the amalgamation of Accounts and Audit?

**DEALINGS OF PATHAN MONEY-LENDERS WITH THEIR DEBTORS EMPLOYED IN THE IMPERIAL SECRETARIAT.**

1679. **\*Mr. B. N. Misra:** (a) Are Government aware that dealings of Pathan money-lenders with their debtors employed in the offices of the Imperial Secretariat and residing in Government buildings in New Delhi are very objectionable, inasmuch as these Pathans enter such debtors' residences by force, quarrel and molest them on their way to office and back, as also stop debtors in front of the Secretariat building where they wait looking for their debtors?

(b) Is it also a fact that several representations to be protected from harassment of the said nature have been made to the Superintendent of Police by the debtors concerned?

(c) Will Government please state in how many cases inquiries have been made and how many such Pathans have been stopped while entering Government buildings and remaining there or punished and how? If not, why not?

**The Honourable Mr. H. G. Haig:** I have made enquiries from the Delhi Administration and will lay the reply on the table in due course.

**APPOINTMENT OF A MUSLIM AS SUPERINTENDENT OF THE OFFICE OF THE POSTMASTER GENERAL, PUNJAB AND NORTH-WEST FRONTIER CIRCLE.**

1680. **\*Mr. S. C. Mitra** (on behalf of Mr. M. Maswood Ahmad): (a) Is it a fact that the appointment of Superintendent of the office of the

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†For answer to this question, see answer to question No. 1673.

Postmaster General, Punjab and North-West Frontier Circle, has been held exclusively by Hindus for the last 25 years and, according to the existing procedure for promotion, there is no likelihood of this post being held by a Moslem for a long time to come?

(b) If the reply to part (a) above be in the affirmative, will Government be pleased to state what action, if any, they propose to take to appoint a member of the Muslim community in this post?

**The Honourable Sir Frank Noyce:** (a) and (b). The Honourable Member is referred to the reply given to parts (d) and (f) of Mr. Shaikh Fazal Haq Piracha's starred question No. 515 in this House on the 17th February, 1931.

**APPOINTMENT OF MUSLIMS AS HEAD CLERKS IN THE OFFICE OF THE POSTMASTER GENERAL, PUNJAB AND NORTH-WEST FRONTIER CIRCLE.**

1681. **\*Mr. S. C. Mitra** (on behalf of Mr. M. Maswood Ahmad): (a) Is it a fact that 12 out of the 13 appointments of Head Clerks in the office of the Postmaster General, Punjab and North-West Frontier Circle, are held by non-Muslims of one community?

(b) Are Government aware that according to the seniority list there is absolutely no chance for a Muslim of the office of Postmaster General, Punjab and North-West Frontier Circle being promoted as Head Clerk of the same office?

(c) Is it a fact that many officials belonging to the Circle were imported to the said circle office? Is it also a fact that many officials were transferred from the said circle office to the circle?

(d) Are Government prepared to order that the selection grade appointments in the Circle and Circle Offices be made interchangeable instead of leaving the matter to the will of the Circle officers in order to remove communal inequalities?

**The Honourable Sir Frank Noyce:** (a) The Honourable Member is referred to the reply given to part (a) of Shaikh Sadiq Hasan's starred question No. 883 in this House on the 7th November.

(b) and (d). The Honourable Member is referred to the replies given to parts (c) and (d) of his starred question No. 1448 in this House on the 28th of last month.

(c) Government have no information.

**APPOINTMENT OF MEMBERS OF DIFFERENT COMMUNITIES AS SUPERINTENDENTS OF POST OFFICES AND THEIR HEAD CLERKS IN THE PUNJAB POSTAL CIRCLE.**

1682. **\*Mr. S. C. Mitra** (on behalf of Mr. M. Maswood Ahmad): (a) Is it a fact that the Postmaster General, Punjab, has issued a standing order to the effect that in the Divisions, Superintendents of Post Offices and their Head Clerks should belong to different communities?

(b) If the reply to part (a) above be in the affirmative, will Government be pleased to state the reasons for which the above procedure is not followed in the Punjab and North-West Frontier Circle? Is it a fact that the Superintendent and the appointment clerk in the said Circle are both of one community for the last several years?

(c) Is it a fact that the appointment clerk in the circle office is directly responsible to the Office Superintendent and not to the Head Clerk of the branch?

(d) If the reply to part (c) above be in the affirmative, are Government prepared to order that the appointment clerk and the Office Superintendent should not be of the same community?

**Mr. T. Ryan:** (a) to (d). Government have no information. The matter is within the competence of the Postmaster General, Punjab and North-West Frontier Circle to whom a copy of the question is being sent for such action as he may consider necessary. As has already been explained to the Honourable Member, the term 'appointment clerk' is a misnomer, and will be suitably altered.

#### LEAKAGE OF IMPORTANT INFORMATION FROM THE PUNJAB AND NORTH-WEST FRONTIER POSTAL CIRCLE OFFICE.

1633. **\*Mr. M. Maswood Ahmad:** (a) Is it a fact that due to leakage of important information from the Punjab and North-West Frontier Circle Office, the Postmaster General had to issue warnings on several occasions?

(b) Is it a fact that quite recently a clerk of the said Circle Office was caught red-handed while intercepting the official document and the case is under investigation?

**Mr. T. Ryan:** (a) and (b). Government have no information. The matter is within the competence of the Postmaster General.

#### RAILWAY MAIL SERVICE DIVISIONS IN THE PUNJAB AND NORTH-WEST FRONTIER POSTAL CIRCLE.

1684. **\*Mr. S. C. Mitra** (on behalf of Mr. M. Maswood Ahmad): Is it a fact that the charge of both Railway Mail Service Divisions in the Punjab and North-West Frontier Circle is held by non-Muslim Superintendents?

**The Honourable Sir Frank Noyce:** Yes.

#### ORDERLY PEONS OF THE SUPERINTENDENTS OF POST OFFICES IN THE PUNJAB AND NORTH-WEST FRONTIER POSTAL CIRCLE.

1685. **\*Mr. S. C. Mitra** (on behalf of Mr. M. Maswood Ahmad): (a) Is it a fact that according to the Punjab Postmaster General's Orders the orderly peons of the Superintendents should be permanent employees and that they should remain where they are employed after the transfer of the Superintendent?

(b) Is it a fact that the Superintendents of Post Offices are forbidden to appoint their private servants as orderly peons and to take them from Division to Division on their transfers?

(c) Is it a fact that this order was violated by the late Superintendent of Post Offices, Ludhiana Division, Punjab on more than one occasion?

**Mr. T. Ryan:** (a) Yes, according to the Director General's orders.

(b) Yes.

(c) Government have no information. A copy of the question is being sent to the Postmaster General, Punjab and North-West Frontier, for such action as he may consider necessary.

RETRENCHMENT IN THE PUNJAB POSTAL CIRCLE.

1686. \***Mr. S. C. Mitra** (on behalf of Mr. M. Maswood Ahmad): (a) Is it a fact that the Government of India issued instructions to the effect that, while retrenching the staff, due regard should be given to the fact that the ratio of each community as it stood prior to reduction is maintained?

(b) Is it a fact that the ratio of Muslims and non-Muslims before and after retrenchment in the Punjab Postal Circle in the grades of Rs. 250—350 and 160—250, as given below is correct? If not, will Government supply correct figures?

*Grade, Rs. 250—350.*

	Hindus.	Muslims.	Sikhs.	Christians.
Prior to reduction (percentage) . . . .	4 (28·6%)	5 (35·7%)	3 (21·4%)	2 (14·3%)
After reduction . . . . .	7 (46·6%)	4 (26·6%)	1 (6·6%)	3 (20%)

*Grade, Rs. 160—250.*

Prior to reduction (percentage) . . . .	131 (62%)	60 (28%)	14 (7%)	6 (3%)
After reduction . . . . .	139 (66%)	52 (24%)	13 (7%)	6 (3%)

(c) If the reply to part (b) above be in the affirmative, will Government be pleased to state the reasons for infringing the Government's Orders on the subject, and the action they propose to take to redress the grievances of the communities affected?

**The Honourable Sir Frank Noyce:** (a) The Honourable Member is referred to the reply given to part (a) of Shaikh Fazal Haq Piracha's starred question No. 1066 in this House on the 9th November, 1932.

(b) and (c). Government are not in a position to check these figures; but even if the position as regards communal ratios in these two clerical selection grades is as stated by the Honourable Member, this would not necessarily mean that the orders of Government referred to in part (a) of the question have been infringed, since, for the purposes of retrenchment, the selection and non-selection grades in the postal clerical cadre are being taken together. There has actually been no decline in the ratio of Muslims in the postal clerical cadre as a whole, as a result of retrenchments, as already explained in reply to part (c) of Shaikh Fazal Haq Piracha's question just referred to.

RETRENCHMENT IN THE PUNJAB POSTAL CIRCLE.

1687. \***Mr. S. C. Mitra** (on behalf of Mr. M. Maswood Ahmad): (a) Is it a fact that out of 46 selection grade officials retrenched in the Punjab Postal Circle, as many as 23 officials (twenty Hindus and three Muslims) were already on extension of service?

(b) Is it a fact that out of the remaining 23 retrenched officials, who were not yet superannuated, as many as sixteen Muslims and seven non-Muslims have been retrenched?

(c) If the reply to parts (a) and (b) above be in the affirmative, will Government be pleased to state what action they propose to take to right the wrong done to the Muslims?

**The Honourable Sir Frank Noyce:** (a) and (b). Enquiries are being made and a reply will be laid on the table of the House in due course.

(c) None, the retrenchment rules have been impartially applied and no community has been 'wronged' in the process. In this connection the Honourable Member's attention is invited to the reply which I have just given to his question No. 1686.

#### MEMBERS OF THE DELHI ROYAL FAMILY IN INDIA.

1688. **\*Mr. S. C. Mitra** (on behalf of Mr. M. Maswood Ahmad): (a) Will Government please state the number of the members of the Delhi royal family in this country and also the districts in which they live?

(b) What is the number of those who are drawing pensions or charitable allowances?

(c) Have Government made any arrangement for their education?

(d) Have they ever been represented by a nominated or elected representative in the Legislative Assembly?

**Mr. H. A. F. Metcalfe:** With your permission, Sir, I propose to answer questions Nos. 1688 and 1689 together. The information is being collected and will be laid on the table in due course.

#### MEMORIAL OF *ANJUMAN KHANDAN-I-JEHANDAR SHAH*, BENARES, TO THE GOVERNMENT OF INDIA.

†1689. **\*Mr. S. C. Mitra** (on behalf of Mr. M. Maswood Ahmad): (a) Have the Anjuman Khandan-i-Jehandar Shah, Benares, forwarded any memorial or resolutions to the Government of India?

(b) What action, if any, did Government take?

(c) What are their demands? How far are Government prepared to meet them?

#### SHRADHANAND MODEL *BASTI* FOR DEPRESSED CLASSES IN PAHARGANJ, DELHI.

1690. **\*Rao Bahadur M. O. Rajah:** (a) Are Government aware:

- (i) that there is a locality called the Shradhanand Model *Basti* for the Depressed Classes in Paharganj, Delhi;
- (ii) that this place has been set apart by the Chief Commissioner, Delhi, for the Depressed Classes;
- (iii) that this area belongs to the Nazul Department;
- (iv) that there are no street lights, water taps and other sanitary arrangements in this locality and the Depressed Class inhabitants of the locality who have been living there since 1929, find it extremely difficult to get water even for drinking purposes;

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†For answer to this question, see answer to question No. 1688.

- (v) that for want of drains the water flowing from the houses, as also rain water, collects in low surfaces of the locality and the health of the inhabitants is always threatened by malaria which may spread there at any time and also spread to the adjoining localities;
- (vi) that in spite of the repeated requests of the inhabitants who have also shown the dirty condition of the locality to the Health Officer, Delhi Municipality, no action has so far been taken to redress the grievances of the inhabitants, and even now night soil of the adjoining localities is dumped around the houses of this locality and, on account of this, the houses are always full of bad smell and the entire atmosphere remains unhealthy;
- (vii) that the Municipal Committee do not take any pains in this connection because they consider the land a charge of the Nazul Department and the Nazul Department ignores it because it does not think itself responsible for the health of the residents?

(b) Are Government prepared to take early action to fix on one of these bodies the responsibility to complete the necessary arrangements at an early date with a view to relieving the inhabitants from the difficulties stated above?

**Mr. G. S. Bajpai:** With your permission, Sir, I will answer questions 1690 and 1691 together.

Enquiries have been made and the result will be communicated to the House in due course.

#### DELAY IN THE DISPOSAL OF APPLICATIONS OF DEPRESSED CLASSES BY THE NAZUL DEPARTMENT, DELHI.

†1691. **\*Rao Bahadur M. C. Rajah:** (a) Are Government aware that the Nazul Department of Delhi delays the applications of the persons belonging to the Depressed Classes who want plots of land to build houses, even after the necessary orders have been passed by the Deputy Commissioner, Delhi?

(b) Are Government prepared to see that such applications are disposed of expeditiously?

#### WORK OF CASH RECEIPTS AND DISBURSEMENTS ON THE STATE-MANAGED RAILWAYS.

1692. **\*Mr. S. C. Mitra** (on behalf of Sardar Sant Singh): (a) Will Government please state the names of the State-managed Railways and the offices connected therewith on which the work of cash receipts and disbursements is done—

- (i) under State management, and
- (ii) through contractors?

(b) Will Government please state the reasons for the disparity of the arrangements on the different State-managed Railways and their offices



and have Government considered the desirability of having a uniform system for getting the cash work done either through contractors on all the said Railways and their offices, or under its own management, whichever may be really economical from the point of view of the tax-payers?

**Mr. P. R. Rau:** (a) The work is entrusted to a contractor on the North Western Railway; on the other State-managed Railways, it is carried out departmentally.

(b) Government do not consider that there is any necessity for uniformity in this matter, nor that one system can be said to be *per se* better than the other. The cash contract system has been working satisfactorily and cheaply on the North Western Railway for a long time but so has the departmental system on the other railway which has been under State-management for an equally long period, *viz.*, the Eastern Bengal Railway. An attempt was recently made to introduce the cash contract system on the East Indian Railway and tenders were called for, but no satisfactory arrangements could be made and the attempt was given up. Other methods of reducing expenditure in connection with cash and pay work on this and the Great Indian Peninsula Railway are at present under consideration.

#### TENDERS FOR THE CONTRACT OF CASH WORK OF THE RAILWAY CLEARING ACCOUNTS OFFICE, DELHI.

1693. **\*Mr. S. C. Mitra** (on behalf of Sardar Sant Singh): (a) Is it a fact that in giving cash contracts on State-managed Railways, tenders are invariably not called for? If so, are Government prepared to consider the desirability of introducing the procedure of calling for tenders?

(b) Are Government aware that there are bankers of good repute in Delhi who are treasurers to Government treasuries, banks, etc.? If so, will Government please state if tenders will be called for for the contract of cash work of the Railway Clearing Accounts Office? Is it proposed to be given to the Head Cashier of a certain Railway?

**Mr. P. R. Rau:** (a) The answer to the first part of the question is in the negative and the second part does not arise.

(b) The answer to the first part of the question is in the affirmative. The cash work of the Railway Clearing Accounts Office is so small that it has been considered unnecessary to call for tenders for it. It is proposed to entrust the work to the Cashier of the North Western Railway at a small additional remuneration of Rs. 175 per mensem.

#### COMPLAINTS OF THE PUBLIC OF DELHI CITY ABOUT THE CORRUPTION IN CERTAIN DEPARTMENTS.

1694. **\*Mr. N. R. Gunjal:** (a) Are Government aware of the general complaint of the public of Delhi City about the corruption in most of the departments on account of nearly all the responsible posts being in the hands of the same persons for the last so many years? If not, do Government propose to enquire into the matter?

(b) Will Government be pleased to state whether there is a general rule in practice in every province in India to transfer an officer after

every three years? If so, why are the officers of Delhi not transferred for years and years?

(c) Will Government be pleased to state whether there is a clear rule that an officer cannot be posted in his residential place? If so, why are the responsible posts given to persons who are residents of Delhi?

**The Honourable Mr. H. G. Haig:** With your permission, Sir, I shall answer questions Nos. 1694 and 1695 together. I am making inquiries and will lay a reply on the table in due course.

**RESIDENCE AND PERIOD OF STAY IN DELHI OF CERTAIN OFFICIALS OF THE DELHI PROVINCE.**

†1695. **\*Mr. N. R. Gunjal:** (a) Will Government be pleased to place a statement on the table showing the residence and period of stay in Delhi of heads, assistants, sub-assistants and superintendents of the following departments:—1. Delhi Public Works Department, 2. Delhi Tahsil, 3. Delhi Nazul, 4. Delhi Industrial Surveyor, 5. Delhi Excise and 6. Delhi Deputy Commissioner's Office?

(b) Do Government propose to send back to the Punjab or elsewhere as soon as possible persons whose usual tenure of appointment is over and also those who are residents of Delhi to remove the public grievances; if not, why not?

**SHORT NOTICE QUESTION AND ANSWER.**

**STRIKE ON THE MADRAS AND SOUTHERN MAHRATTA RAILWAY.**

**Mr. G. Morgan:** With reference to the reply given by the Honourable Member for Railways to Mr. Maswood Ahmad's short notice question on the 24th November, 1932, will Government be pleased to indicate their attitude in regard to the question of the grant of pay to strikers during the period they are on strike?

**The Honourable Sir Joseph Blore:** Government are definitely opposed to the grant of pay to strikers during the period they are on strike.

**Mr. C. S. Ranga Iyer:** Will Government be pleased to state what was the reason for the Madras and Southern Mahratta Railway strike?

**The Honourable Sir Joseph Blore:** Well, Sir, I made a rather complete statement in regard to that a few days ago and I would refer my Honourable friend to the statement which I then made.

**Mr. C. S. Ranga Iyer:** Was it not a fact that the strike was a result of panic?

**The Honourable Sir Joseph Blore:** On whose part?

**Mr. C. S. Ranga Iyer:** On the part of the employees, but panic arising from panicky rumours and panicky situation created by the railway administration from time to time.

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†For answer to this question, see answer to question No. 1694.

**The Honourable Sir Joseph Bhoré:** I should say not.

**Mr. C. S. Ranga Iyer:** Is it not a fact that while every railway administration attempted to reduce the surplus figures, the Madras and Southern Mahratta Railway administration inflated its figures in the course of a few weeks?

**The Honourable Sir Joseph Bhoré:** It is absolutely unfounded.

**Mr. C. S. Ranga Iyer:** Is it not a fact that the Agent admitted his mistake in regard to the inflation of the figures in regard to the Perambur workshops and also the mistake of his predecessor and the Chief Mechanical Engineer?

**The Honourable Sir Joseph Bhoré:** I think he certainly admitted that he made a mistake.

**Mr. C. S. Ranga Iyer:** Is it not a fact that on the 31st October the Agent of the Madras and Southern Mahratta Railway stated that the surplus stated by him before the strike, namely, 474 was wrong and that it should be increased to 700?

**The Honourable Sir Joseph Bhoré:** That I think is probably correct but I must have notice of the question.

**Mr. C. S. Ranga Iyer:** Was it not a fact that the Union asked for supply of information about adjustment of these surpluses and a circular was issued on the 23rd September, that 474 was the surplus?

**The Honourable Sir Joseph Bhoré:** I cannot state the exact date or contents of those circulars.

**Mr. C. S. Ranga Iyer:** Is it not a fact that on the 1st November, the Agent wrote to the Union 12 days after the strike that the surplus was about 700?

**The Honourable Sir Joseph Bhoré:** If my Honourable friend will put down these questions, I shall obtain the necessary information and supply him with it.

**Mr. C. S. Ranga Iyer:** Has the attention of the Government been drawn to the Resolution passed by the Madras Corporation inviting the Government to take steps to settle the strike and the statements made by Sir Sivaswamy Aiyar, Right Honourable Srinivasa Sastri, Sir K. V. Reddi and others?

**The Honourable Sir Joseph Bhoré:** I have seen the statements referred to by my Honourable friend.

**Mr. C. S. Ranga Iyer:** Are Government aware that because of the panic and the conflicting statements made by the Agent from time to time the employees got panic-struck and, therefore, they went on strike?

**The Honourable Sir Joseph Bhoré:** It is possible that the employees were panic-stricken. I have no information as to that.

**Mr. C. S. Ranga Iyer:** In these circumstances will Government consider the advisability of giving pay to those employees who went on strike when they are reinstated?

**The Honourable Sir Joseph Bhoré:** Most certainly not.

**Mr. C. S. Ranga Iyer:** Was there not a difference of 12 days between the one statement made by the Agent and the other statement inflating the figures, thus causing the extension of the strike and increasing the panic?

**The Honourable Sir Joseph Bhoré:** I cannot give my Honourable friend precise information on that point.

**Mr. C. S. Ranga Iyer:** Will Government consider the advisability of giving them part payment, if not full payment?

**The Honourable Sir Joseph Bhoré:** No, Sir, in no circumstances.

**Mr. C. S. Ranga Iyer:** Will Government consider the advisability of taking in every one who has been sent away?

**The Honourable Sir Joseph Bhoré:** That is a matter for the Administration to consider.

**Mr. C. S. Ranga Iyer:** Will Government recommend to the Agent the advisability of taking back those who have been sent back?

**The Honourable Sir Joseph Bhoré:** No, Sir.

**Mr. C. S. Ranga Iyer:** Why not?

**The Honourable Sir Joseph Bhoré:** Because Government are not in a position to dictate what action should be taken in this matter.

**Mr. C. S. Ranga Iyer:** Have any negotiations been carried on by the Government with the Union and what stage have those negotiations reached?

**The Honourable Sir Joseph Bhoré:** No negotiations as far as I am aware with any Union.

**Mr. C. S. Ranga Iyer:** Is it not a fact that the Whitley Commission recommended that in certain circumstances the Government should set up an arbitration Board to inquire and settle matters like this?

**The Honourable Sir Joseph Bhoré:** That may be so, Sir, but I must refer to the Whitley Commission's report before I commit myself.

**Mr. K. Ahmed:** Is it not a fact, Sir, that under the Trade Dispute Act, passed by this Assembly, the Union has a right to ask the Government to go into the matter and that the Government are bound to make inquiries into it under the provision of that enactment?

**The Honourable Sir Joseph Bhoré:** I do not think it is correct to say that the Government are bound to make inquiries. The Union is certainly entitled to ask the Government to make inquiries.

**Mr. K. Ahmed:** Have Government got any petition or memorial or will they *suo motu* set up an inquiry under the circumstances?

**The Honourable Sir Joseph Bhoré:** I must have notice of that question.

**Mr. K. Ahmed:** That is the criterion in view of the fact . . . .

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Will the Honourable Member put a supplementary question if he wishes to do so?

**Mr. K. Ahmed:** Do Government propose to set up an inquiry under the circumstances?

**The Honourable Sir Joseph Bhoré:** Not at present.

**Mr. C. S. Ranga Iyer:** Is it not a fact that before the strike, the Madras and Southern Mahratta Railway Employees Union asked for a Conciliation Board and the Railway administration refused to join in the application?

**The Honourable Sir Joseph Bhoré:** That is a point on which I must ask for notice.

**Mr. C. S. Ranga Iyer:** The Honourable Member may take it from me that it is a fact. Were any efforts made by the Government of India to avert the strike by meeting the parties concerned and trying to bring about a settlement?

**The Honourable Sir Joseph Bhoré:** That was a matter for the Agent to settle with the strikers. It is a Company-managed administration and Government were not prepared to interfere at that stage.

**Mr. C. S. Ranga Iyer:** Is the Government aware that the Agent has throughout taken an intransigent attitude, changing his facts and figures from time to time?

**The Honourable Sir Joseph Bhoré:** I cannot admit that the Agent has taken an intransigent attitude in the matter.

**Mr. C. S. Ranga Iyer:** Will Government be pleased to find out from the Agent why he was unwilling to join in the application for a Conciliation Board?

**The Honourable Sir Joseph Bhoré:** That is best known to the Agent himself.

**Mr. C. S. Ranga Iyer:** Will Government ascertain from the Agent why he assumed that attitude of intransigence?

**The Honourable Sir Joseph Bhoré:** No, Sir.

**Mr. C. S. Ranga Iyer:** Why not?

**The Honourable Sir Joseph Bhoré:** Because I do not propose to do so.

**Mr. C. S. Ranga Iyer:** Are Government aware that because of this policy of intransigence, the Agent caused the strike and thereby caused intense suffering to the employees?

**The Honourable Sir Joseph Bhoré:** I do not admit the suggestion contained in my Honourable friend's question.

**Mr. C. S. Ranga Iyer:** Will Government be pleased to make a full statement on this subject at their earliest convenience?

**The Honourable Sir Joseph Bhoré:** I have made a very full statement a few days ago and I suggest that my Honourable friend should read that statement.

**Mr. C. S. Ranga Iyer:** Will Government consider the advisability of taking conciliatory steps to satisfy those who have gone on strike?

**The Honourable Sir Joseph Bhoré:** It is open to the strikers to approach the Agent and I have no doubt that if they do so he will consider any suggestions they may have to make.

**Mr. C. S. Ranga Iyer:** Are Government aware that there is widespread sympathy with the strikers in Madras not only among the people but also amongst the railway men?

**The Honourable Sir Joseph Bhoré:** That may be so but sometimes sympathy is misplaced.

**Mr. C. S. Ranga Iyer:** Can Government deny that there was an inflation of surplus figures by the Agent?

**The Honourable Sir Joseph Bhoré:** There was no question of inflation whatsoever. The Agent made a mistake in his calculation and the moment he discovered it he informed the Union of the facts.

**Mr. C. S. Ranga Iyer:** Are Government aware that this miscalculation on the part of the Agent has created a certain amount of panic among the employees?

**The Honourable Sir Joseph Bhoré:** That I cannot say, Sir.

**Mr. C. S. Ranga Iyer:** Will Government try to ascertain whether the panic arose from this miscalculation, and how far this miscalculation was responsible for the strike?

**The Honourable Sir Joseph Bhoré:** I do not think, Sir, that that enters into the question at all.

**Mr. C. S. Ranga Iyer:** Will Government be pleased to take it from me that that very much entered into the question and that leads us to the question of pay of those who went on strike?

**Mr. K. P. Thampan:** Do I understand that the strike is practically over now?

**The Honourable Sir Joseph Bhoré:** No. I have no reason to believe that it is over.

**Mr. K. P. Thampan:** Is the strike going to be extended to other branches of the Railway?

**The Honourable Sir Joseph Bhoré:** So far the strike is confined to the workshops. It has not extended as yet to the line.

**Mr. K. P. Thampan:** I remember to have read in the papers two days ago that labourers of other Departments are also thinking of going on strike?

**The Honourable Sir Joseph Bhoré:** I have also read that, Sir.

**Mr. C. S. Ranga Iyer:** Has the attention of the Government been drawn to the following circular issued by the Chief Mechanical Engineer under the Agent's instructions on the 19th September:

"In order that the employees in the Perambur mechanical workshops may understand the present position regarding surplus men, I am authorised to publish the following information. At present there are 160 permanent men of the workshops who are transferred to the Re-Modelling Works."

**The Honourable Sir Joseph Bhoré:** What does the Honourable Member want to know in regard to that circular? I have no doubt that some such circular as he is quoting from was issued.

**Mr. C. S. Ranga Iyer:** I shall put it in the form of a question:

"Is the Government aware that the original idea was that the 110 men suddenly turned into 160 on the 19th September were to be sent away after the work of Re-Modelling Works was finished?"

**The Honourable Sir Joseph Bhoré:** My Honourable friend is merely labouring the same point in repeating his question. I have admitted that the Agent made a miscalculation, and the moment he discovered his mistake, he informed the Union of that mistake.

**Mr. C. S. Ranga Iyer:** May I draw the attention of the Government to the fact that it was not one miscalculation, but a series of miscalculations, a sort of ascending gradation of step by step miscalculation, until from nil the figures mounted up to 700, creating a continuous panic among the employees and finally resulting in a strike, owing to a policy which could easily have been avoided. Are Government aware of that?

**The Honourable Sir Joseph Bhoré:** I am aware of the fact that the figures were never nil, Sir.

**Mr. C. S. Ranga Iyer:** They were certainly very much below 100. Can Government deny that statement?

**The Honourable Sir Joseph Bhoré:** I do not know exactly what the figures were, but in my recollection I think the first figures were 110.

**Mr. O. S. Ranga Iyer:** Lastly, Sir, I would ask the Government whether they would be pleased to take into consideration the circumstances that led up to the strike and deal with the strikers generously.

**The Honourable Sir Joseph Bhore:** It is not a matter for the Government at this stage. It is a matter for the Local Administration, Sir.

**Mr. C. S. Ranga Iyer:** May I request the Government to advise the Local Administration on those lines?

**The Honourable Sir Joseph Bhore:** The matter is receiving their very careful attention from day to day.

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### STATEMENTS LAID ON THE TABLE.

**The Honourable Sir George Schuster** (Finance Member): Sir, I lay on the table the information promised in reply to starred questions Nos. 1325, 1326 and 1328 to 1336 asked by Mr. Gaya Prasad Singh on the 21st November, 1932.

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### PRINTING OF TEN-RUPEE NOTES IN THE CURRENCY NOTE PRESS, NASIK.

\*1325. (a) The figures required by the Honourable Member are not readily available, but I presume the figures given below will provide him with the information he desires. The numbers of forged ten-rupee notes received by the Intelligence Bureau from Currency Offices in March, April and May, 1928 were 903 and 523 and 878 respectively, against 187 in April, 1927. In April, 1928, the forgeries of one series were detected in 51 places covering practically the whole of India and Burma. The printing of ten-rupee notes of the old form was begun in the Currency Note Press in April, 1928. The change of design was decided on in July, 1928.

(b) One Assistant Supervisor (Mr. Critchell) was removed from the probationary appointment he was holding on the Control side and reverted to a daily paid job on the technical side. He subsequently showed himself fitted (still) on the technical side) for appointment as Junior Supervisor on the rate of pay mentioned in the question. The probationary Chief Supervisor was also reverted from the Control to the technical side where he had received his previous training. Mr. Critchell is connected by his brother's marriage to Mr. Hildreth. The fire resulted from the careless throwing away of a match, used to illuminate a dark place on a machine, without previously extinguishing it. The damage was trivial and the perpetrator was merely warned.

(c) The star watermarked paper was not used for the new design as it was considered advisable for further protection to adopt a watermark portrait of His Majesty.

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### AMENITIES IN EUROPEAN AND INDIAN STYLE QUARTERS FOR THE STAFF OF THE CURRENCY NOTE PRESS, NASIK.

\*1326. (a) Mr. Kapur, Mr. Dutta Gupta and Mr. Mascarenhas live in European style quarters. Such quarters were not offered to those living in Indian style and the question of refusal did not therefore arise. The answer to the rest of the question is in the negative.

(b) The European style quarters are fitted with electric fans and English style bathrooms, lavatories and kitchens. The Indian style quarters have Indian style lavatories, washing places and kitchens and compounds completely enclosed by walls



and no electric fans. The free supply of water to various styles of quarters is as follows :

*European style quarters.*

Classes I and II . . . . .	6,000 gallons.
Class III . . . . .	1,500 gallons.

*Indian style quarters.*

Class I . . . . .	3,000 gallons.
Class II . . . . .	2,000 gallons.
Classes III and IV. All their requirements.	

The difference between the free allowances for European and Indian quarters is due to the greater consumption of water in the English style of bathing.

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SHORTAGE OF CURRENCY NOTES AT NASIK.

\*1328. (1) One note of Rs. 100. Mr. Ganguli and Mr. Ghose were in charge; both of them have since been retrenched.

(2) One note of Rs. 5 and two notes of Rs. 10. The responsibility could not be fixed on any individual. The probabilities are that the notes were not stolen but were destroyed inside the Press with a view to making trouble.

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CASES OF THEFT OF CURRENCY NOTES REPORTED TO THE MAGISTERIAL COURTS AT NASIK.

\*1329. (a) No such case is known, nor has any such judgment been received by the Master, Security Printing.

(b) Thefts are not reported to magisterial courts.

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PREFERENTIAL TREATMENT IN THE DISCHARGE OF AN EMPLOYEE OF THE CURRENCY NOTE PRESS, NASIK.

\*1330. (a) As stated in reply to question No. 1328 the responsibility for the loss of Rs. 5 currency note sheets could not be fixed on any particular individual. Mr. Patel has proved himself a more useful officer than Mr. Mishra and is therefore retained.

(b) Yes.

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ALLEGATIONS AGAINST THE MASTER, SECURITY PRINTING INDIA, NASIK.

\*1331. (a) The incident referred to occurred in private life outside the Press. On investigation it was found that both parties were in the wrong and they were duly admonished by the Master. No weight was attached to this incident when deciding that Mr. Mishra should be retrenched.

(b) The matter was of such a trivial nature that Government do not think that any useful purpose will be served by placing the papers on the table of the House.

(c) No. As stated above, both parties were verbally admonished by the Master, Security Printing. It is not a fact that the attitude of the Master is always anti-Indian.

(d) No.

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APPOINTMENT OF ADYA GAUD BRAHMIN AS ASSISTANT SUPERVISORS, CURRENCY NOTE PRESS, NASIK.

\*1332. (a) Candidates who in the opinion of the Master appeared most suitable were appointed and at the time of retrenchment the most efficient were retained.

(b) None of them is either a relation or is closely connected with the Chief Supervisor, Control, who does not hail from Ratnagiri.

(c) Beyond the fact that Mr. G. V. Desai is a relation of Mr. Topiwalla who is known to the Chief Supervisor, there is no truth in any of the suggestions in the question.

(d) The Chief Supervisor, Control, was transferred from the post of Bullion Keeper, Bombay Mint, on the 10th September, 1928. Three Adya Gaud Brahmins of the Ratnagiri district have been appointed since that date.

(e) No.

(f) Every endeavour was made to equalise the representation of various communities, castes and creeds from among those whose qualifications appeared suitable.

(g) No.

#### CLAIMS OF RETRENCHED SUPERVISORS FOR VACANCIES OCCURRING IN THE CURRENCY NOTE PRESS, NASIK.

\*1333. The claims of those with satisfactory service will certainly be favourably considered and they were so informed ..... at the time of their discharge.

#### INDIANISATION IN THE NASIK PRESSES.

\*1334. (a) Owing to a decrease in the demand for the manufactures of the Press a number of posts had to be retrenched and in doing so the proportion of Europeans to Indians has been diminished by dispensing with services of some of the former. When the present depression ceases and the posts now retrenched are required, they will be filled by Indians. Two Indians have been engaged on probation for special training for superior posts and are shaping well.

(b) As soon as suitable Indians are available. As stated above, attempts are being made to train Indians for superior posts in the Press.

#### RETRENCHMENT IN THE CURRENCY NOTE PRESS, NASIK.

\*1335. The selection for retrenchment was made by a Board consisting of the Master and Head of the Branch concerned in each case.

#### ASSESSED RENTS PAID BY EUROPEANS AND ANGLO-INDIANS FOR THEIR QUARTERS AT NASIK.

\*1336. (a), (b) and (c). Europeans and Anglo-Indians paying rent under rule are :

	Rs.	A.	P.
Col. Sir George Willis . . . . .	387	8	0
Lt.-Col. W. E. Perry . . . . .	247	8	0
Mr. Cackett . . . . .	128	0	0
„ Bachelor . . . . .	95	0	0
„ Jones (T. E.) . . . . .	83	0	0
„ Macey . . . . .	66	0	0
„ Corby . . . . .	35	0	0
„ Johnson . . . . .	52	0	0
„ Weir . . . . .	43	0	0
„ Griffin . . . . .	22	0	0
„ Ley . . . . .	22	0	0
„ Critchell . . . . .	19	0	0
Miss Griffin . . . . .	13	8	0

(d) The standard rent of the quarters occupied by the Master is Rs. 560. Since all these quarters were built at a time when building costs were excessive it was not possible to provide accommodation suitable to the posts at a cost which would result in the standard rent not exceeding the maximum chargeable, viz., 10 per cent. of emoluments.

**The Honourable Mr. H. G. Haig** (Home Member): Sir, I lay on the table the information promised in reply to starred question No. 1600 asked by Mr. Jagan Nath Aggarwal on the 6th December, 1932.

MEETINGS HELD IN LAHORE IN CONNECTION WITH THE REMOVAL OF  
UNTOUCHABILITY.

\*1600. The individuals named were arrested. The question whether the meetings attended by them were religious or political meetings is now *sub judice*.

**The Honourable Sir Frank Noyce** (Member for Industries and Labour): Sir, I lay on the table the information promised in reply to part (b) of starred question No. 1376 asked by Seth Haji Abdoola Haroon on the 22nd November, 1932.

NON-RECRUITMENT OF MUSLIM CLERKS IN THE OFFICE OF THE DIVISIONAL  
ENGINEER, TELEGRAPHS, NEW DELHI.

\*1376.

*Table showing the number of Muslims and Non-Muslims recruited after 1925 in the different Postal Circles.*

	Muslims.	Non-Muslims.
Bengal and Assam Circle . . . . .	..	29
Bihar and Orissa Circle . . . . .	2	8
Bombay Circle . . . . .	1	10
Burma Circle . . . . .	4	25
Central Circle . . . . .	1	8
Madras Circle . . . . .	..	14
Punjab and N.-W. F. Circle . . . . .	8	30
Sind and Baluchistan Circle . . . . .	3	7
United Provinces Circle . . . . .	3	20

*N.B.*—It is mentioned for information that a Telegraph Engineering Divisional office does not form a separate unit for purposes of recruitment. Until recently the recruitment was conducted on a circle basis. While now the division as a whole, including the Divisional office, forms such a unit.

**Mr. T. Ryan** (Director General of Posts and Telegraphs): Sir, I lay on the table the information promised in reply to supplementary questions to starred question No. 1072 asked by Shaikh Fazal Haq Piracha on the 9th November, 1932.

#### STOPPAGE OF RECRUITMENT OF MEN OF THE PREPONDERANT COMMUNITY IN THE POSTAL DEPARTMENT.

\*1072. Mr. Booth, as Postmaster General, Punjab and North-West Frontier Circle, did not issue any general orders affecting the whole circle but issued special orders affecting particular postal divisions and first class post offices in the circle, on various occasions from 1922-26. Examples of such orders are the following:

1. *Order dated 10th February, 1923, concerning the Amritsar (Postal) Division.*—"The recruitment of Hindus should now be stopped until there has been an adequate increase in the number of Mohammadans and Sikhs, particularly the latter."
2. *Order dated March, 1923, concerning the Lahore (Postal) Division.*—"In future Hindus are to be recruited only in 4th vacancies as they occur."
3. *Order dated 1st October, 1923, concerning the Delhi Head Office.*—"No more Hindus are to be admitted to the clerical staff of your office, except graduates, until further orders."

It was made clear by an order of September, 1924, that in most of the cases in question the stoppage of recruitment of Hindus was intended to apply to candidates other than graduates and undergraduates.

The special orders referred to above were issued by the Postmaster General with a view to securing the object desired by the Government of India, viz., prevention of the preponderance of any one community in the service. They were superseded however by general orders in conformity with the instructions issued by the Government of India in the Home Department for the redress of communal inequalities.

**Mr. G. S. Bajpai** (Secretary, Department of Education, Health and Lands): Sir, I lay on the table the information promised in reply to starred question No. 570 asked by Sardar Sant Singh on the 21st September, 1932.

#### FREE MEDICAL ATTENDANCE AND DISPENSARIES FOR THE SECRETARIAT STAFF AT SUMMER HILL.

\*570. Enquiries made show that the Medical Officer of the Summer Hill dispensary did not refuse to attend on Indian clerks. He has now been instructed to afford medical aid to the civilian clerks of the Government of India Secretariat and Attached Offices residing in Government quarters at Summer Hill and their families and to provide them free of charge with such medicines as are required and are available in the Dispensary. This arrangement has been sanctioned provisionally for one year. The usual fees will be payable for consultation, professional advice and care in the case of families

**Mr. P. R. Rau** (Financial Commissioner, Railways): Sir, I lay on the table:

- (i) the information promised in reply to starred question No. 1230 asked by Mr. Nabakumar Sing Dudhoria on the 16th November, 1932.

- (ii) the information promised in reply to unstarred question No. 125 asked by Sir Zulfiqar Ali Khan on the 27th September, 1932;
- (iii) the information promised in reply to unstarred question No. 67 asked by Mr. N. M. Joshi on the 27th September, 1932;
- (iv) the information promised in reply to starred questions Nos. 970 and 971 asked by Mr. M. Maswood Ahmad on the 8th November, 1932;
- (v) the information promised in reply to unstarred question No. 77 asked by Mr. S. C. Mitra on the 27th September, 1932;
- (vi) the information promised in reply to unstarred question No. 78 asked by Mr. S. C. Mitra on the 27th September, 1932; and
- (vii) the information promised in reply to starred question No. 1346 asked by Mr. E. H. M. Bower on the 21st November, 1932.

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POWER HOUSES OWNED BY THE EAST INDIAN RAILWAY.

\*1230. (a) 19.

(b) Jamalpur.

Jasidih.

Lillooah.

Dhanbad.

Barakar.

Asansol.

Moghalsarai.

Raneegunge.

Ondal.

Gaya.

Panagar.

Collieries.

Lucknow.

Kiul.

Tundla.

Gomoh.

Hazaribagh.

Jhajha.

Ajodhya.

(c), (d) and (e). No Resident or Assistant Engineer is directly in charge of individual Power Houses. They are supervised by qualified subordinates under the general supervision of the Electrical Engineers of the section in which they are situated. Government do not consider any useful purpose will be served by collecting information regarding names, qualifications and pay of the men in charge of these Power Houses.

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ALLEGED DIFFERENTIAL TREATMENT IN CONNECTION WITH THE FILLING UP OF LEAVE VACANCIES ON THE NORTH WESTERN RAILWAY.

125. (a) Yes.

(b) No. There was, however, a misunderstanding previously regarding the use of the words "Branch and Section". The Commercial Branch is composed of several sections which have erroneously been called 'branches', viz., Compensation, Rates, Refunds, Litigation, Outstandings, Lost Property and Cash witnesses. These are actually sections and are again divided into sub-sections.

(c) Does not arise.

(d) There has been no such case in recent years.

(e) A Muslim clerk was first instructed to officiate in Grade IV, but on detailed examination by the principal officer concerned it was subsequently found that no officiating arrangements were necessary in the vacancy and the arrangement was cancelled. The clerk in question was not entitled to any officiating allowance because he had only officiated for 11 days when he was reverted, and under present orders an employee must officiate in a higher grade for at least 22 days before he becomes eligible to draw officiating allowance.

(f) The senior most man in the Refund Section, a Christian, was not considered fit to officiate as Head Clerk when the latter went on leave, but the next most senior man, who happened to be a Hindu and was qualified to officiate was allowed to do so.

### SUBORDINATES OFFICIATING IN THE SUPERIOR SERVICE OF THE GREAT INDIAN PENINSULA RAILWAY.

67.—

Names.	Total length of officiating service.			The date of confirmation if any of them have been confirmed in permanent vacancies.
	Years.	Months.	Days.	

#### 1. (i) Transportation (Traffic).

J. Scott . . . . .	8	5	1	27th August 1931.
H. L. D'Silva . . . . .	6	4	..	21st April 1932.
C. Blanche . . . . .	7	1	19	27th August 1931.
H. H. Callaghan . . . . .	6	..	..	27th August 1931.
D. V. Pandharkar . . . . .	6	11	8	25th July 1931.
G. W. Ruffield . . . . .	4	10	..	25th July 1931.
G. Mulleneux . . . . .	4	10	25	
F. Found . . . . .	4	9	4	
G. E. McCann . . . . .	4	..	10	On leave prior to retirement from 30th August 1931.
L. J. Gellard . . . . .	1	7	4	

#### (i) Transportation (Power).

P. L. D. Chatterton . . . . .	4	3	9	27th August 1931.
B. Nixon . . . . .	1	4	4	
H. Smith . . . . .	3	11	14	
H. Ablitt . . . . .	1	7	2	

Names.	Total length of officiating service.			The date of confirmation if any of them have been confirmed in permanent vacancies.
	Years.	Months.	Days.	

2. (ii) *Commercial.*

H. A. Cox . . . . .	8	2	13	25th July 1931.
G. M. A. Shortt . . . . .	7	11	14	25th July 1931.
F. C. Meyer . . . . .	7	8	22	27th August 1931.
U. Dattatraya . . . . .	7	5	29	
H. G. Bates . . . . .	6	4	15	27th August 1931.
F. Carvalho . . . . .	5	6	11	
P. Kedarnath Govindram. . . . .	4	9	20	
J. F. Gomes . . . . .	3	8	12	
P. A. Karnik . . . . .	2	3	20	
J. A. Marrett . . . . .	2	2	19	
T. C. Wynno . . . . .	1	10	11	

3. (iii) *Engineering.*

W. J. Leveridge . . . . .	3	3	21	Retired.
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4. (iv) *Mechanical.*

E. B. Temple . . . . .	1	11	21	
H. Fox . . . . .	1	7	16	
A. C. Otto . . . . .	5	10	1	
W. Van Reyk . . . . .	6	..	8	27th August 1931.
C. R. C. Carrington . . . . .	3	10	11	

## PARCEL CLERKS ON THE NORTH WESTERN RAILWAY.

\*970. (a) No, there are five classes (now called grades).

(b) There is one post in Grade V and one post in Grade IV at Delhi and one in Grade IV at Lahore.

(c) Government regret they are unable to give information regarding the communal composition of individual offices or classes of staff.

(d) The rates of pay of the incumbents of the three posts mentioned in (b) above are Rs. 240, Rs. 180 and Rs. 160 per mensem respectively.

**PROMOTION OF MUSLIMS TO CLASS "D" OF PARCEL CLERKS ON THE  
NORTH-WESTERN RAILWAY.**

\*971. (a) The scales of pay for the different classes (now called grades) of Parcel Clerks on the North Western Railway are as follows:

Grade I Rs. 33—3—60 with efficiency bar at Rs. 42.

Grade II Rs. 66—4—90.

Grade III Rs. 105—5—140.

Grade IV Rs. 150—10—190.

Grade V Rs. 200—10—250.

(b) Class D is now called Grade III, and there is no Muslim in this grade on the North Western Railway.

(c) Class C is now called Grade II. Promotions to Grade III and above are controlled by the Headquarters Office and men recommended by Divisional Superintendents are promoted in order of seniority.

(d) Government have no reason to believe that the claims of Muslim Parcel Clerks are not considered along with others when vacancies in the higher grades arise.

**APPOINTMENTS IN THE SUPERIOR GRADES OF THE ASSAM-BENGAL RAILWAY.**

77. (a) A statement giving the available information is laid on the table. The candidates have been appointed either on the strength of their University qualifications or previous experience or both or after training as probationers.

(b) In cases of appointments from England selection is made by the Consulting Engineers and the Home Board. Appointments made in India were not filled by a Selection Board except in two cases. The Agent, Assam Bengal Railway reports that there were a large number of candidates, particulars of whom were not kept after the appointments were made.

(c) Appointments are sometimes advertised through the press while sometimes selection is made from the very large number of applications received and from the lists received from the Railway Board from time to time.

*Assam Bengal Railway Co. Ltd.*  
(Incorporated in Great Britain.)

Names.	Qualifications.	District or province.	Department.	Date of appointment.	Remarks.
Dr. J. N. Leitch . .	..	..	Medical .	22-4-24	Not in service.
Mr. J. R. Guha . .	..	Dacca	Audit .	16-10-24	
Mr. M. A. Saqui . .	..	(Bengal). ..	Traffic .	28-2-25	
Dr. V. J. A. Wilson .	..	..	Medical .	24-4-25	Not in service. Do.
Mr. J. Izat . .	..	..	Agency .	1-10-25	
Dr. P. C. H. Homer .	..	..	Medical .	8-1-26	
Mr. J. C. Keating . .	..	..	Engineering	3-9-26	Not in service.
Mr. J. L. Dutt (Temp.) .	..	Chittagong	Do. .	1-12-26	
Mr. Sujan Singh . .	..	..	Do. .	7-10-26	
Mr. T. V. Woods . .	..	..	Traffic .	1-11-26	



Names.	Qualifications.	District or province.	Department.	Date of appointment.	Remarks.
Mr. L. E. Hayman .	..	..	Traffic .	1-11-26	Not in service. Do. Do. Do.
Mr. J. S. E. Gaston .	..	..	Engineering	16-3-27	
Mr. Syed Sultan Shah (Temp.).	..	..	Do. .	25-3-27	
Mr. E. A. Provan .	..	..	Loco. .	5-4-27	
Mr. S. Chakravorty .	..	Sibpur (Bengal).	Do. .	5-3-27	
Dr. P. C. Sen .	..	Dacca .	Medical .	1-12-27	Not in service.
Mr. O. Ormerod .	..	..	Traffic .	7-10-27	
Mr. F. C. Freeman .	..	..	Stores .	13-1-28	
Mr. E. W. Baker .	..	..	Engineering	14-9-28	
Mr. B. G. Roy .	..	Hugli .	Traffic .	9-8-28	
Mr. A. H. Khan .	..	..	Loco. .	8-2-28	
Mr. E. A. Cole .	..	..	Do. .	24-11-28	
Mr. S. R. Guha .	B.Sc. (Calcutta) A.S.A.A. (London) Incorporated Accountant.	Dacca .	Audit .	18-2-29	
Mr. J. E. Tyers .	..	..	Loco. .	25-6-29	
Mr. J. K. Derrick .	Service transferred from E. I. Railway.	..	Audit .	19-12-29	
Mr. G. A. N. Gaston .	..	..	Engineering	30-7-29	
Mr. R. M. Bhowmick .	..	Bengal .	Do. .	30-9-29	
Mr. A. N. Roy .	..	Do. .	Traffic .	1-4-30	
Mr. A. M. Rankin .	..	..	Loco. .	7-2-31	
Dr. A. W. J. Morgan .	..	..	Medical .	7-2-31	
Mr. M. K. Mitra .	Late Controller of Railway Accounts.	Calcutta .	Audit .	4-11-31	
Mr. P. N. Batra .	..	..	Loco. .	10-2-32	
Mr. N. H. Clegg .	..	..	Do. .	20-8-31	
Mr. A. Ghosh .	..	Jessore .	Do. .	8-8-32	

The Agent, A. B. Railway, reports that Nursing Sisters are treated as Superior Officers on the A. B. Railway and the information in respect of their appointments since 1924 is as follows :—

Names.	Qualifications.	District or province.	Department.	Date of appointment.	Remarks.
Miss C. Coggins . . .	..	..	Medical .	5-10-24	Not in service.
Miss E. Straaten . . .	..	..	Do. .	16-9-25	Do.
Miss G. Straaten . . .	..	..	Do. .	16-9-25	Do.
Miss M. E. Kelly . . .	..	..	Do. .	6-7-26	Do.
Miss G. Mahon . . .	..	..	Do. .	2-9-27	
Miss J. Donaghue . . .	..	..	Do. .	18-4-31	Not in service.
Miss D. Hart . . .	..	..	Do. .	18-4-31	Do.
Mrs. P. E. Mersh . . .	..	..	Do. .	16-9-31	Do.
Mrs. E. Symmons . . .	..	..	Do. .	2-6-31	Do.
Mrs. B. O'Hara . . .	..	..	Do. .	1-3-32	Do.
Mrs. M. D'Rozzario . . .	..	..	Do. .	3-8-32	

#### EMPLOYMENT ON THE ASSAM BENGAL RAILWAY OF QUALIFIED PERSONS OF THE AREA THROUGH WHICH THAT RAILWAY PASSES.

78. (a) Not necessarily the candidates considered most suitable are appointed.

(b) It is understood that there is no dearth of candidates who belong to the area through which the railway passes.

(c) The Agent reports that particulars of candidates are not retained after the appointments for which the application has been made have been filled.

(d) There are 12 officers who belong to the area or closely adjoining areas.

(e) and (f). No. The appointments are made by or under the authority of the Board of Directors of the Railway Company.

#### CREATION OF THE POST OF PERSONAL ASSISTANT TO THE POWER OFFICER AT BHUSAWAL.

\*1346. (a) No.

(b) There are four Power Officers on this Division.

(c) and (d). Do not arise.

#### THE BENGAL SUPPRESSION OF TERRORIST OUTRAGES (SUPPLEMENTARY) BILL.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Further consideration of the Bill to supplement the Bengal Suppression of Terrorist Outrages Act, 1932.

The question is:

"That clause 5 stand part of the Bill."

**Mr. S. C. Sen.**

**Mr. S. C. Sen** (Bengal National Chamber of Commerce: Indian Commerce): Sir, I move the motion which stands in my name:

"That clause 5 of the Bill be omitted."

Sir, this is a Bill to supplement the Bengal Suppression of Terrorist Outrages Act—not a Bill to amend or repeal that Act or any portion thereof. Now, the Statement of Objects and Reasons appended to the Bill says:

"The Legislative Council of the Government of Bengal have passed an Act known as the Bengal Suppression of Terrorist Outrages Act. As the Government of Bengal have no power to pass legislation which affects the jurisdiction of the High Court of Judicature in Calcutta, it is necessary to supplement this Act by an Act of the Central Legislature, to provide for appeals to the High Court in certain cases and to exclude their jurisdiction in other matters."

Sir, in the Notes on Clauses it is stated:

"The provisions of this clause are not capable of enactment by the Local Legislature in so far as they affect the jurisdiction of the High Court. They exclude interference of a nature likely, if exploited, to diminish the efficacy of action taken under the local Act, and are intended to ensure the speedy trial of terrorist offences."

Now, Sir, clause 3 of this Bill has provided for appeals to the High Court of Judicature in Calcutta,—a procedure which it is admitted that the Local Council could not provide. Now, we come to clause 5. In the Statement of Objects and Reasons it is stated that this clause has been added for the purpose of curtailing the powers of the High Court, and my friend, the Honourable the Home Member, while introducing this Bill, stated as follows:

"We propose that just as the Bengal Act has removed the jurisdiction of the lower Courts, we should remove the jurisdiction in this matter of the High Court. The last provision is contained in clause 5 of the Bill and provides for the exclusion of interference of High Courts with the proceedings in the Courts of Special Magistrates."

In other words, the High Court will not have power to entertain applications in revision. It has, however, been admitted by the Honourable the Law Member that this Legislature is incompetent to do what the Honourable the Home Member wanted this House to do. Under these circumstances, the object for which this clause has been added, is for the curtailment of the revisionary power of the High Court. It is admitted by the Honourable the Law Member, and he has also put forward certain amendments for the purpose of showing that there is no intention to curtail the jurisdiction of the High Court. Now, Sir, for what purpose is this clause now to stand? That is the first question which the Honourable the Law Member will have to answer. Now, for the purpose of my argument, I shall divide the clause into two parts. The first part is:

"Notwithstanding the provisions of the Code, or of any other law for the time being in force, or of anything having the force of law by whatsoever authority made or done, there shall, save as provided in the local Act as supplemented by this Act, be no appeal from any order or sentence passed by a Special Magistrate under the local Act."

Sir, this bars all appeals save as provided in the Local Act and under this Act. Is this necessary? I will refer the Honourable the Home Member to section 404 of the Criminal Procedure Code which provides:

"No appeal shall lie from any judgment or order of a Criminal Court except as provided for by this Code or by any other law for the time being in force."

Now, Sir, the Bengal Act has provided for certain appeals to the Sessions Court and, by clause 3 of this Bill, we have provided for appeal to the High Court. That completes the whole cycle, namely, from any sentence passed by Special Magistrates, whether in Calcutta or outside, we have provided an appeal. As a matter of fact, the provisions here have gone further than the provisions of the Criminal Procedure Code, for, under the Criminal Procedure Code, there was no appeal from the Presidency Magistrate for sentences of six months and of certain limited fine. But, under this clause 3, we have provided for every appeal from every sentence passed by the Presidency Magistrate. Similarly, under the Code, there are certain limits for appeal from a Magistrate of the First Class and it must be remembered in this connection that the Special Magistrates can either be the District Magistrate or First Class Magistrates. Under this Act and the provisions contained in section 3 we have provided for appeals of every class of sentence passed by the Special Magistrate either to the High Court or to the Sessions Judges. Under these circumstances, may, I know, for what purpose this provision which is contained in the first part of the clause shall stand? There is no utility for it except to encumber the Statute and to make it more incomprehensible.

Now, I come to the second part of the clause:

"and save as aforesaid, no Court shall have authority to revise such order or sentence, or to transfer any case from any such Magistrate, or to make any order under section 491 of the Code, or have any jurisdiction of any kind in respect of any proceedings of any such Magistrate, or of any direction made under Chapter II of the local Act."

I maintain, Sir, that this provision of the Bill goes beyond the Preamble and in effect repeals one of the clauses contained in the Bengal Act which, I submit, having regard to the Preamble, this Legislature cannot do. Now, let me put before you the clauses in the Bengal Act under which I say that this goes beyond or rather amends or repeals the provisions of that Act. Section 26 of the Bengal Act provides:

"In the trial of any case under this Act, a Special Magistrate shall follow the procedure prescribed by the Code for the trial of warrant cases by Magistrates."

Therefore, so far as the Code is concerned, those provisions of the Code which deal with procedure are incorporated here. This is merely a matter of procedure. There are in the Code provisions for revision by the Sessions Judge. Now, let us see how far this Act has affected that power of the Sessions Court. There is nothing in the Act which debars the exercise of that power by the Sessions Court. On the other hand, section 34 of the Act especially enjoins such power being exercised. It runs thus:

"The provisions of the Code and of any other law for the time being in force, in so far as they may be applicable and in so far as they are not inconsistent with the provisions of this Chapter, shall apply to all matters connected with, arising from or consequent upon a trial by Special Magistrate."

Then, Sir, except to the extent of the provisions which have been made inconsistent by the special provisions contained in this Act, all the provisions of the Code apply to the trial by the Special Magistrate whether it is before or after the judgment or during the pendency of the trial. Now, Sir, it may be said that there are sections in this Act which to a

[Mr. S. C. Sen.]

certain extent modify the powers contained in the Code of Criminal Procedure. For that purpose I may point out clause 4 of section 32 of the Act, which runs thus :

"Under section 32, a Special Magistrate in a trial when any accused rendered himself incapable of appearing before the Magistrate, can declare by order in writing to dispense with the attendance of such accused."

Now, what happens after his presence was dispensed with? If there are any irregularities after that, provisions have been made barring any remedy. This is contained in clause 4 which runs as follows :

"Notwithstanding anything contained in the Code, no finding, sentence or order passed in a trial before a Special Magistrate shall be held to be illegal by any Court by reason of any omission or irregularity whatever arising from the absence of any or all of the accused whose attendance has been dispensed with under sub-section (1)."

This clause has a very important bearing on the question which I am now putting before you, because, under this clause, all the subsequent irregularities are barred. If it had provided in a general way that all omissions or all irregularities in a trial before a Special Magistrate are barred, I could understand it, but it does not say so. It expressly states that only such omissions and only such irregularities as might happen in the proceedings by reason of or arising from the absence of any or all of the accused. Therefore, such irregularities must be after an order has been made under section 32. Any omissions or irregularities so long as the accused are present are not barred by this clause and, therefore, the provisions contained in the Code relating to the power of revision by the Sessions Judges still remain. Those provisions remain, Sir, first, by implication and, secondly, by virtue of section 34 which enjoins that all the other provisions of the Code which have not been barred by this Statute shall have effect and shall apply. Under these circumstances, my contention is that the provisions contained in the Code and which have been made expressly applicable under section 34 are debarred by this clause 5, and, I submit, that that cannot be done having regard to the Preamble which says that it is to supplement. I do not know whether under section 67 of the Government of India Act sanction has been obtained for amending or repealing this Act. But if such sanction has been obtained only on the ground of the Preamble, namely, that this is an Act to supplement and not to repeal or amend, I submit, no provision ought to be in the Bill which in any way goes beyond the Preamble. With these observations, I move the motion standing in my name for the deletion of the whole clause.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Amendment moved :

"That clause 5 of the Bill be omitted."

**The Honourable Sir Brojendra Mitter** (Law Member): Sir, so far as I understand Mr. Sen, he has made two points: he says that the first part of clause 5 is unnecessary and that the second part is *ultra vires*. With regard to the first part, I wish the House to remember that under the ordinary law, rights of appeal are given to certain Courts: for instance, from a First Class Magistrate a right of appeal is given to the Sessions Court in all cases. What we are doing in the first part is that we are giving a right of appeal in certain cases to the Sessions Court and in other cases to the

High Court. To that extent we are changing the law. It is to the benefit of the accused, because, under the Criminal Procedure Code, there was no appeal to the High Court from the decision of a First Class Magistrate. But what we are providing in clause 3 of the Act is that an appeal shall lie to the High Court from any sentence of transportation for a term exceeding two years or of imprisonment for a term exceeding four years passed by a Special Magistrate in any trial under the Local Act held outside the Presidency-town of Calcutta. Therefore, you cannot say that this is unnecessary. We are changing the procedure in the matter of appeal: whereas the Criminal Procedure Code gives an appeal merely to the Sessions Court, we are giving a right of appeal in the lesser sentences to the Sessions Court, but in all the heavier sentences we are giving the appeal to the High Court. If it be asked why we are making this change, I say we are making the change for this reason: we have provided in clause 5 that there should not be any interference with the trial of an accused during its pendency. After the trial is over, we have given large rights to the accused. But, for ensuring a speedy trial and a speedy conclusion, we are stopping all intermediate dilatory proceedings and that is why it is necessary that the accused should be given some more privileges than he has under the Criminal Procedure Code. During the trial he cannot prolong it at his sweet will—he cannot, on any excuse, good, bad or indifferent, run up to the High Court and hold up proceedings. We have stopped all that. Having stopped all that, we are giving the accused greater rights in the matter of appeal: Honourable Members will realise that when an appeal is preferred to the High Court, the accused can take any objection to the order, either on a question of law or on a question of fact or on a question of procedure. Everything is open to the accused, so that substantially we are not taking away any rights, but we are merely ensuring a speedy trial stopping intermediate dilatory procedure. That is the necessity of the first part of clause 5. As regards the second part, my Honourable friend says that it is *ultra vires*, because we say that this is a supplementary Act, but we are not merely supplementing it, but also amending it. That is not a question of jurisdiction. You may say if you are so very meticulous that we ought to have stated this as an Act to supplement and also to amend. If my friend will look to the endorsement on the back of the Bill, he will see it has received the sanction of the Governor General. With the sanction of the Governor General under section 67 of the Government of India Act, this Legislature has the power not merely to supplement, but also to amend. Therefore, there is no question of this Bill being *ultra vires* of the Legislature. You may say that the Preamble is not exhaustive enough: that is the utmost you can say . . . . .

**Mr. S. C. Sen:** That is what I have said.

**The Honourable Sir Brojendra Mitter:** You said it was *ultra vires* . . . . .

**Mr. S. C. Sen:** . . . . . of the Preamble.

**The Honourable Sir Brojendra Mitter:** If my Honourable friend is so subtle, I can meet his subtlety by another subtlety and that is that the Preamble is never part of the operative portion of an Act. Anyhow, let us not go into those matters. Then, my friend says what becomes of the

[Sir Brojendra Mitter.]

High Court? It was admitted by me, when you, Sir, gave your ruling the other day, that we cannot in any way interfere with the rights of the High Court under section 107 of the Government of India Act. I still say so. On that occasion I pointed out that apart from section 107 of the Government of India Act the High Court derived its powers from other sources—I mentioned two, the Criminal Procedure Code and the Letters Patent; and this Legislature has the right to take away these powers in so far as they arise from the Criminal Procedure Code or the Letters Patent. Therefore, my answer to my friend on the second point of *ultra vires* is, that this Bill is within the competence of this Legislature.

**Sir Abdur Rahim** (Calcutta and Suburbs: Muhammadan Urban): Sir, I support the amendment that has been moved by my Honourable friend, Mr. Sen. I do not wish to argue any question of technicality; but I must point out at the outset that though we accept your ruling as regards the amendments which will be moved, I take it, by the Honourable the Law Member being in order, it does seem absolutely difficult, nay impossible, to conceive how the powers of superintendence which are vested in the High Court and which cannot be in any way affected by legislation by this Assembly are going to be preserved if the clause, as it stands, remains. You may put in any words like what have been used in the amendment which is proposed by the Government. But the difficulty still remains that you have got to define the power of superintendence and the powers which are taken away by this clause. This clause could not be any more sweeping than it is, I mean, even taking the amendments into consideration, the words "notwithstanding any law for the time being in force" include the powers that are exercised by the High Court. Then, we have again, "Notwithstanding the provisions of the Code, etc., no Court shall have authority"—I take it, that includes the High Court,—"to revise such order or sentence, or to transfer any case from any such Magistrate, or to make any order under section 491 of the Code", and so on. It seems to me that, unless we have some sort of definition of the powers of the High Court which are still left and of the powers which are taken away by this clause, it will be putting the High Court in a very difficult position. I do not know how the Honourable the Law Member proposes to reconcile this clause with the powers of superintendence that are vested in the High Courts. Under the powers of superintendence vested in the High Courts, they can revise any sentence or order if they are satisfied that there has been an obvious and gross miscarriage of justice. The fact is that the Magistracy and the subordinate judiciary in this country at this stage could not be trusted with exercising that large powers without some supervision by the High Court. That difficulty still remains in spite of the amendments which are proposed.

Now, I come to the merits. I agree with a great deal of what has been said by my friend, Mr. Sen, but I go further and say that really no good purpose will be served by taking away the powers vested in the High Courts. The Honourable the Law Member pointed out that appeals were allowed from sentences of Magistrates to the High Court which, under the ordinary law, would not go to the High Court, but only to the Sessions Judge. That is perfectly true, but this is not really giving a right to the accused which did not exist; it is really taking away the right of the accused to go to the High Court in order to obtain revision of the sentence if there has been an irregularity or any error in deciding a question of law.

**The Honourable Sir Brojendra Mitter:** We are curtailing the proceedings.

**Sir Abdur Rahim:** But look at the powers Government are vesting in the Magistrates. The Magistrate may be a man of four years' standing under section 24 of the Bengal Terrorists Outrages Act, or he may be a man of longer standing, but you are giving him power to pass any sentence except a sentence of death or transportation for more than seven years. He can pass a sentence of hard labour for seven years or six years or transportation for six years, and that is a power which is not given to any Magistrate under the Criminal Procedure Code. This is a special power, and, therefore, the appeal should necessarily be to the High Court. There can be no denying that this is the reason why an appeal is allowed to the High Court. At the same time, you are taking away another remedy which the accused ordinarily has. Under the ordinary law, an accused person, who is sentenced by a Magistrate, has two remedies, one an appeal to the Sessions Judge and then to go to the High Court for revision, if there has been any irregularity or any error in deciding questions of law. Therefore, it cannot be said that a special privilege has been conferred on the accused under this Act. I do not understand why this power of revision by the High Court should be taken away. Do the Government really mean to suggest that the High Court is likely to exercise its powers wrongly or in an erratic manner?

**The Honourable Sir Brojendra Mitter:** No, Sir; we do not suggest that.

**Sir Abdur Rahim:** I take it that the Government do not suggest that, People generally in this country have very great confidence in the High Courts . . . . .

**The Honourable Sir Brojendra Mitter:** So have we.

**Sir Abdur Rahim:** In that case, I ask, why should the power of revision by the High Court be taken away even in the interests of speedy trial? The trial is finished, the man has been sentenced, and very likely he is in jail. There is no question of trial. All that the High Court will do under its power of revision is to see that there has not been any grave irregularity of procedure or that a question of law involved in the case has not been wrongly decided. Do the Government contend that if there has been no proper trial, still the conviction must stand and the High Court's hands must be tied?

**The Honourable Sir Brojendra Mitter:** I think my Honourable friend is under a misconception. The High Courts' powers of superintendence under section 107 cannot be taken away and the High Courts of Calcutta and Bombay, as I pointed out, have exercised powers of revision under section 107. Therefore, it is not a question of the High Courts' powers of revision being taken away.

**Sir Abdur Rahim:** Then, I say, the Bill is very badly drafted. It says: "No Court shall have authority to revise such order or sentence or to transfer any case . . . . .". Is not the High Court a Court? I do not find any amendment on the agenda to the effect that it should be no Court than a High Court x x x x x



**The Honourable Sir Brojendra Mitter:** There is an amendment. It will be moved presently.

**Sir Abdur Rahim:** An amendment to the effect that no Court other than a High Court . . . ?

**The Honourable Sir Brojendra Mitter:** It will be moved presently. I am going to move the last amendment.

**Sir Abdur Rahim:** Yes, I see, here is one—"Provided always that nothing herein contained shall affect the powers of the High Court under section 107 of the Government of India Act". But this is only a proviso. In the clause itself it says: "No Court shall have authority to revise such order or sentence". Surely the two things are inconsistent. At any rate, it is absolutely bad drafting. I think the Honourable the Law Member is aware that the powers of superintendence are not exercised in the same way as the powers of revision. Power of revision is an ordinary power of the High Court under the Criminal Procedure Code, and it has always been interpreted that the power of superintendence which is vested in the High Court by the Letters Patent or the Charter Act or the Government of India Act is not to be exercised except in very rare cases. I should like to know if the Honourable the Law Member contends that both the powers are exercised in the same way, I mean the powers of revision and of superintendence. If that be so, why take away the ordinary powers of revision of the High Court, unless the position of the Government be, that however irregular the so-called trial has been, even if there has been a gross miscarriage of justice, even if a material question of law which affects the entire trial and the conviction and sentence has been wrongly decided, even then it ought not to be set right.

**The Honourable Sir Brojendra Mitter:** It can be set right in appeal.

**Sir Abdur Rahim:** But there is no second appeal. We know, as a matter of fact, in how many cases revision is sought for from the High Court and the High Court has to interfere . . .

**The Honourable Sir Brojendra Mitter:** My learned friend is under a misapprehension. An appeal has been given in every case. Whereas appeals do not lie under the Criminal Procedure Code in every case, yet under this Bill and the Bengal Bill an appeal has been given in every case however slight the punishment may be.

**Mr. S. O. Mitra** (Chittagong and Rajshahi Divisions: Non-Muhamadan Rural): To the Sessions Court.

**Sir Abdur Rahim:** My learned friend's contention is this, that there is no occasion for a revision at all, not even against the order of the Sessions Judge in appeal. Then why put in these words? I mean, he cannot get out of it. Surely this is opposed to our every day experience. As the clause is drafted, it is certainly bad. Also, as a matter of fact, there may be revision of certain intermediate or interlocutory proceedings which would otherwise lead to the trial being vitiated by irregularities. Is it the object of the Government that in those cases the High Court should not interfere?

**The Honourable Sir Brojendra Mitter:** No, that is not so.

**Sir Abdur Rahim:** Then it is very difficult to understand what is the object. If Government want only to take away the powers of revision, which are vested in the Sessions Court, then say so plainly. In fact the Sessions Court itself cannot revise or alter or repeal a sentence. It cannot do so, it has got to refer to the High Court. So, ultimately the matter has to come to the High Court and it is the power of revision of the High Court that has to be exercised if a wrong conviction has to be set right. The Sessions Judge has got full powers so far as orders of discharge are concerned, but not in the case of convictions. Therefore, if all that is intended by Government is to limit the powers of the Sessions Court as regards the revision of proceedings, then, they could have very easily made that absolutely clear in the clause itself, and they need not have mentioned "Court" in general terms. If that were so, in that case I think there might be no very serious objection to the clause being modified in that way. But if you use language like this, then you are taking away the very necessary and salutary power of the High Court to revise proceedings of Sessions Judges and Magistrates. Now, Sir, as regards transfer, is it intended that there shall be no transfer at all? Supposing a Magistrate from the very inception has shown bias against the accused or has made statements which show that he has prejudged the case, is there to be no transfer at all? Only the other day, the right of transfer, of getting proceedings stopped,—because of an application for transfer—has been considerably curtailed, and we supported that view, in connection with the amendment of section 526 of the Criminal Procedure Code. By this clause, you are doing away with the power of the Superior Court to transfer any case whatever which is pending before a Magistrate. Is that right? Do we not all know by experience that there are cases in which, in the interests of fair trial, a case should be transferred? What is the justification for this prohibition? Take the provision relating to section 491. "No Court shall make any order under section 491". I do not know if my knowledge of the law is rusty, but I should think that that power is only vested in the High Court. How could my learned friend say here that "Court" means only the Sessions Court?

**The Honourable Sir Brojendra Mitter:** I do not say that "Court" means the Sessions Court. It does include the High Court, but by the proviso the power of the High Court under the Government of India Act is preserved.

**Sir Abdur Rahim:** Then I take it that by this clause Government are really encroaching upon the power of superintendence of the High Court . . . .

**The Honourable Sir Brojendra Mitter:** Undoubtedly.

**Sir Abdur Rahim:** To what extent? Let us know clearly what powers are left.

**The Honourable Sir Brojendra Mitter:** I have explained over and over again that we are taking away the powers which are given by the Criminal Procedure Code, powers which are given by the Letters Patent, but we

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are not taking away the powers given under the Government of India Act. . . . (Mr. S. C. Mitra: "Which you cannot"). . . which we cannot,—quite right. (An Honourable Member: "Very great generosity!")

**Sir Abdur Rahim:** Does not the power of superintendence cover a great deal of the power of revision?

**The Honourable Sir Brojendra Mitter:** What it covers it covers.

**Sir Abdur Rahim:** Then, why express it in such vague and general terms? Define it, say that the High Court shall go so far and no further, and that was really what the Honourable the Law Member was asked to define.

**The Honourable Sir Brojendra Mitter:** That is the function of the Court, and that is not the function of the Legislature—to interpret what the word "superintendence" means.

**Sir Abdur Rahim:** But the function of the Legislature is not to put difficulties in the way of the Court, and that is what this clause will do. You are really leaving matters so vague and so inconsistent that it will be very difficult for the High Court to exercise its power of superintendence.

Let us come to the merits of the provision regarding section 491 of the Code; that is what is called the *Habeas Corpus*. Now, supposing a person who has been arrested is kept indefinitely in custody and is not brought before a Magistrate, is it the case of Government that even in such a case the High Court should not interfere? Who then? There is no other authority that can interfere. I take it that the Magistrate, even under this Act, is not expected to keep an accused person indefinitely in custody. But supposing a Magistrate does that from time to time, for months together, if not a Magistrate, supposing the police does it, and the man is not being tried, is it to be said that the High Court should not interfere in such a case? It seems to me that this clause, if it is put on the Statute-book as part of the law applying to Bengal, it will go very far to prevent an accused person having a fair trial, and that certainly is not the object of this Bill or the Bengal Act. You must give the accused person—who is in custody, who has been brought upon a serious charge—you must give him the chance of fair trial, but the chances of fair trial are very seriously prejudiced by this clause.

**Mr. Lalchand Navalrai** (Sind: Non-Muhammadan Rural): Sir, I support this motion. I think these are not the days when the law should be curtailed or retrograde measures adopted. These are days when the law should be liberalised, should be improved upon, and obstructions such as these should not be put in the way of getting a remedy.

I will come directly to the Bill itself and I submit that I would call this clause 5 not only retrograde, but a cruel one. It provides that three or four powers of the High Court have to be removed. The first is with regard to the revisional powers. At present the High Court has got revisional powers under section 439 of the Criminal Procedure Code and I must point out that, it is not only a Chartered High Court, but every other Court, exercising powers of the Highest Court, have got similar powers

under section 439, Cr. P. C., just as the Judicial Commissioner's Court in Sind. Therefore, the powers under section 439 Cr. P. C. are equal powers in the Chartered High Courts as well as the High Courts not having been created under the Letters Patent. The first attempt of this clause is to take away the powers of the High Court which are called the revisional powers. The second attempt is to take away the power of transferring cases which is again a power given to the High Court and also given in certain cases to District Magistrates. That power is also being done away with under clause 5 of this Bill. Then, the third power, which is minimised by this clause, is the one given under section 491, Cr. P. C., by which the Chartered High Court may send for the proceedings and also to order any person who is in confinement wrongly to be brought up before that Court for liberation. The mischief contained in this clause is that the High Court's jurisdiction on very important points is being impaired. It is the extreme limit to which this clause goes. Now I would refer to certain defects in this clause. I refer to the remark of the Honourable the Law Member that powers are now being given under clause 3 to the High Court to hear appeals under this Bill and that there is no necessity of giving any revisional power to the High Courts under section 439, Cr. P. C., but may I point out to him that under clause 3 the appeal to the High Court from outside the Presidency-town will only lie against sentences which are for more than two years and not below. In that case, it comes to this that under the Bengal Act appeals for two years and more will lie to the High Court, but there will be absolutely no interference by the High Court for lower sentences imposed outside the Presidency-town. Whatever the Sessions Judge does will stand absolute and final. I submit that this is injustice. At present every accused has got the privilege to go to the High Court for revision and to take away those powers in cases where the punishment is for two years and under is absolutely wrong and this is a provision to which, I do not know, if the attention of the Honourable the Law Member has been drawn, for he said no power was being curtailed, but on the contrary the appeals were being allowed to be made to the High Court. But so far as these particular cases from outside the Presidency-town are concerned, the High Court has got no power at all. This is, therefore, the position which we should not accept. Then, coming to the revisional powers, I confess I cannot at all understand the difference the Honourable the Law Member makes out between revision under section 107 of the Government of India Act and revision under section 439 of the Criminal Procedure Code. Up to this time, the Honourable Member has not told us what is the difference. In my humble opinion, there is absolutely no difference and it will be a contradiction in terms to say in one breath that the High Court has got powers under section 107 and in the other breath to say that, under section 439, the High Court has got no powers. Under section 435, Cr. P. C., the High Courts and some other Courts may call for and examine the records of any proceedings of any inferior Criminal Court situate within the local limits of their jurisdiction for the purpose of satisfying themselves as to the correctness, legality or propriety of any finding, sentence or order recorded or passed and as to the regularity of such proceedings. The question arises, are similar powers conferred by section 107 of the Government of India Act? If they are, then it is absolutely *ultra vires* to enact the present clause. Reading section 107 of the Government of India Act, what do we find? Each of the Chartered High Courts has got the power of superintendence over all Courts for the time being subordinate to its appellate jurisdiction. These

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are very wide powers, even wider than those covered by section 435, read with section 439, Cr. P. C. How is it then that this provision is being enacted in the face of the existing provision under section 107 of the Government of India Act, for, the Honourable the Law Member concedes that the powers under that section are not being wrested away from the High Courts. Therefore, I say, that the legislation which we are attempting to make will be inconsistent with powers under section 107. Furthermore, how could an invidious distinction be maintained between a High Court which is a Chartered one and the other which is not Chartered. There have actually been cases in Sind, which have been reported, wherein proceedings taken under Ordinances could not be sent for by the Court of the highest jurisdiction under section 107, though it was found out that clear injustice had happened in such cases.

**The Honourable Sir Brojendra Mitter:** That distinction has been made by Parliament, not by us. It is in the Government of India Act itself.

**Mr. Lalchand Navalrai:** Is it therefore, that you are worsening the position? Unless the Honourable the Law Member provides that powers under section 439, Cr. P. C., will be exercised by a Court which is not a Chartered High Court, he can not be said to be consistent. Otherwise it amounts to taking away at present all powers of revision from Courts of Judicial Commissioners, and I do not know why such an injustice should be allowed to be perpetrated . . . . .

**The Honourable Sir Brojendra Mitter:** Does my learned friend not realize that we are dealing only with the Calcutta High Court, because this is a Bengal Act? It has no application to Sind.

**Mr. Lalchand Navalrai:** I am dealing with the question of principle. The Government might apply the principle—which is being laid down for Bengal today—the next day to other places too. Where is the guarantee that the Government are not on its way to do things that are retrograde? I submit that the Bombay High Court in connection with the Ordinance did send for records under section 107 of the Government of India Act and corrected the proceedings by acquitting the accused concerned. Therefore, I submit, that while it is being suggested that under section 107 of the Government of India Act, proceedings may be sent for, those under section 439, Cr. P. C.,—a similar law—would not be sent for, a position is being created which is wholly anomalous. Next, I find, there is a section in the Criminal Procedure Code—section 404—which reads thus:

“No appeals shall lie from any judgment or order of a Criminal Court except as provided for by this Code or by any other law for the time being in force.”

Now, reading this section we find that an appeal shall lie in such cases as are provided for by the Code of Criminal Procedure or by any other Act. Unless we have such a section restricting the powers of revision, also in the Criminal Procedure Code Revisional Chapter, the High Court shall not be barred by any legislation, and until such time the High Courts shall have jurisdiction under section 439, Cr. P. C., to send for records. That is another legal difficulty which should be realised.

Then, Sir, as regards the question of transfer, powers in regard to which are being taken away in respect of proceedings under the Bengal

Special Act, at present the High Court and under section 528 of the Criminal Procedure Code, the District Magistrates have powers of transfer and the attempt is that these powers should not be exercised by them. This is wholly objectionable. Sir, I fully agree with the remarks of the Honourable Sir Abdur Rahim, who has so much experience of High Courts and of the administration of justice. We are reduced to this extraordinary position, that under the Bengal Act accused persons remain wholly at the mercy of these Magistrates. After all, Magistrates are human beings, and they may be good, bad or indifferent, and there may be Courts partial or otherwise, but here you are placing the accused absolutely at the mercy of a Magistrate who will practically decide that case finally. Sir, I submit with all the emphasis at my command that such a procedure is absolutely against all canons of justice and against all laws of all countries, that a man, whose case is being tried in a manner flagrantly, wrongly or illegally, should not have the opportunity to go to the High Court for transferring his case! Sir, what is legislation for, for giving justice and no injustice to people? I, therefore, submit that it is wholly and absolutely wrong to do away with the powers of the High Court under section 426, Cr. P. C. Sir, there ought always to be reason, sense and logic in doing things, especially in legislation. What reasons have the Treasury Benches given for this legislation? They say, it will delay matters. That may be quite right, but is it fair that a man who wants justice should not be given justice, because there will be some delay? Is there any sense in it? The Honourable the Law Member knows that only a short time ago, the transfer law was changed and improved upon so much as to deter more than one application being made for transfer. Under that law several barricades have been put in the way of transfer applications. An applicant has to be bound down to make the intended transfer application or he would be fined. He has been given an opportunity to apply for transfer only once. That being the case, does the ground of this apprehended delay exist still? Is not this fear, therefore, merely in the imagination of the Honourable the Law Member and the Treasury Benches? Can it be denied that sometimes Magistrates in some cases do lose their head, or go bound by certain instructions, or that sometimes they take up an attitude absolutely intolerable, and do they mean to say that in such cases also there should be no power of reference to the High Court? Sir, that is palpably and grossly wrong and unjust. Then, as regards the powers under section 491, Cr. P. C., there again arises a legal question. Oft-times it has been admitted by the other side that the High Courts' powers under the *Habeas Corpus* Act could not be taken away by powers under section 491, Cr. P. C., having been reduced. Now, the *Habeas Corpus* Act gives more powers than those bestowed by section 491, Cr. P. C. Is it not a contradiction in terms to take away lesser powers the High Court possesses which are covered by the *Habeas Corpus*? Again, the Honourable the Law Member wants to be partial to the Chartered High Courts, as those Courts which are not Chartered High Courts cannot send for records under the *Habeas Corpus* . . . . .

**The Honourable Sir Brojendra Mitter:** Probably my learned friend is not aware that the High Court of Calcutta has held that apart from section 491, the High Court has no powers under the *Habeas Corpus* Act. Sir, I had the honour of arguing that case.

**Mr. S. C. Sen:** That is a wrong judgment.

**Mr. Lalchand Navalrai:** Sir, I also had the honour of putting up two cases against that case in this House. He has referred to a Calcutta judgment but I quoted 50 Madras and a Bombay case against the Calcutta view.

**The Honourable Sir Brojendra Mitter:** We are dealing now with the Calcutta High Court.

**Mr. Lalchand Navalrai:** It was the Calcutta High Court, of course, from which my Honourable friend, the Law Member, secured that view. That case, however, was a case of one Judge and it was not a Full Bench case. Now, when you have two High Courts against one High Court, why is it that this Calcutta case is always trotted out and put before this House? Sir, I submit that in any event there is a difference of opinion,—and why should it be held that High Courts have no such power? Still more, if the High Court has got no powers under the *Habeas Corpus* Act, then this section in the Criminal Procedure Code must remain unaffected, otherwise it is a blot on justice, it is a blot on the Legislature to enact such an enactment. So, I submit that there is neither consistency nor any logic in the drafting of this clause 5 and I appeal to the House, specially those who are not lawyers, to give their attention and to look at it from the commonsense point of view. The House should remember that it is making a law which is detrimental to the country. It is not a communal question. It will affect everybody, be he a European, a Parsee, a Christian, a Hindu or a Muhammadan. Therefore, beware of the law you are making. I think the motion moved is a very salutary one and it should be accepted.

Then, Sir, I come to the last portion of the clause itself. A mere cursory reading will show how unjust and how unreasonable it is. It says:

"The High Court or any Court will have no jurisdiction of any kind in respect of any proceedings of any such Magistrate."

These are too wide powers. In clause 3 (1) (a), it has been said:

"An appeal shall lie against any sentence passed by a Special Magistrate in any trial held under the local Act in the Presidency-town of Calcutta."

I take it that this is a trial of the accused person who is before the Court and if he is sentenced, there will be an appeal, but may I ask, if in that trial the Special Magistrate takes up the proceedings against any witness or any person who is not even a witness who commits contempt of the Court and fines him Rs. 200, which he can, will there be an appeal or revision, or no? This is a question that I pertinently put to the Honourable the Law Member. As no answer has come from him, I take it that there will be none. Is that justice? I do not think I need take up the time of the House any further to bring to light the injustice that this clause will do and I fully support the amendment under consideration.

**Raja Bahadur G. Krishnamachariar** (Tanjore *cum* Trichinopoly: Non-Muhammadan Rural): Sir, after the elaborate argument put forward by my Honourable friend, Sir Abdur Rahim, to which I think the Honourable the Law Member practically agreed in so far as the clearness of expression is concerned, I did not think there was any necessity to take up the time of the House by making long speeches. But the observations that fell from my Honourable friend, Mr. Lalchand Navalrai, have compelled me

to offer in my own humble way a few remarks. I think he was under a misapprehension when he said that the Government Benches had made a distinction between section 107 of the Government of India Act and section 439. As a matter of fact, it was Sir Abdur Rahim who said that there was a distinction and, if my friend, Mr. Lalchand Navalrai, had referred to section 107 of the Government of India Act, he would not have raised any objection on that score. Section 107 of the Government of India Act runs thus:

"Each of the High Courts has superintendence over all Courts for the time being subject to its appellate jurisdiction, and may do any of the following things, that is to say, call for returns, direct the transfer of any suit or appeal from any such Court to any other Court of equal or superior jurisdiction, etc., etc."

Then there is a proviso that these rules shall not contravene any other existing rules, etc. It will be seen from this that the powers of revision under section 439 have not been touched by this clause at all, and, if I may say so with respect, to the later decision of the High Courts, superintendence that is contemplated is only an executive superintendence and not a judicial superintendence.

**Mr. Lalchand Navalrai:** Will the Honorable Member excuse me if I correct him? In section 107 of the Government of India Act, there is a power of superintendence which is general and very wide and will include powers such as are invested by section 439, Criminal Procedure Code.

**Raja Bahadur G. Krishnamachariar:** That is what I was trying to point out. Each of the High Courts has superintendence over all Courts and may do any of the following acts. To me it appears that these two put together exclude the exercise of any judicial act and that is the reason why the power to transfer has had to be especially provided for in clause 2. One does not overlap the other and I respectfully submit that if you take away the power under section 439, you would take away every judicial power of revision and, therefore, section 107 will not by itself help anybody. Consequently, my friend, Sir Abdur Rahim, is perfectly right in contending that the power conferred by section 107 is quite different and is very much less than what the justice of the case may require. Therefore, it is absolutely necessary if you want to take away the power of the High Court under section 439, as the Honourable the Law Member has stated that he was doing, that some provision ought to be made which will invest the High Court with power to exercise its proper and legitimate function, namely, to set right injustice and the mistakes of law and of procedure on the part of the lower Courts. I would, therefore, submit and request the Honourable the Law Member to bring his mind to bear upon this very important question and not to run away with the idea that section 107 of the Government of India Act covers the whole issue. He ought to make a provision in such a manner that the power that he says he is taking away would be restored in some other manner by which it can be exercised. That is all I have to say, Sir.

**Mr. C. S. Ranga Iyer** (Rohilkund and Kumaon Divisions: Non-Muhammadan Rural): Sir, ordinarily I should not have spoken on this amendment and I had no original intention to speak either. But I must, in view of the attitude, not altogether unexpected, taken by the Honourable the Law Member, speak out once again that this is an amendment to which the Opposition attaches a great deal of importance and this is a clause to



[Mr. C. S. Ranga Iyer.]

which it takes strong exception. This is really the central point in our controversy and if this clause had not been added to the Bill, the Bill would not be so unpleasant and so unwholesome as we consider it to be. Sir, in his usual lucid manner, the Leader of the Independent Party, a great Judge once upon a time, has mentioned His own apprehensions based on his own personal experience, an apprehension shared by a very important advocate and learned Member from Sind. Our objection in this matter is the objection to the restriction of the right which otherwise would have been enjoyed by the internees under the Bengal Regulation of 1818, the Madras Regulation of 1819 or the Bombay Regulation of 1827. Nothing in section 491 of the Code applies to these Regulations of the nineteenth century. I cannot understand the Honourable the Law Member in this twentieth century bringing down the restrictions under that "rusty" Regulation, as Lord Morley described it, upon people who are to be imprisoned under this new Bengal Act. That is one consideration which the Opposition cannot altogether ignore.

The other consideration is doing away with the intermediate stages. The Honourable the Law Member conceded that in lighter sentences there will be an appeal to the Sessions Court and in heavier sentences an appeal to the High Court. I admit that he has tried to make the best of a bad job; but the job continues to be bad all the same; and, Sir, when the existing rights are being taken away under a law, we must strongly protest. As for the wording of clause 5 which the Honourable the Law Member is amending,—his is more or less a superfluous amendment, judging by the subtleties of law, but a necessary amendment judging from the necessities of this House,—I can only say that he still takes away some of the existing rights and privileges of the High Court as he makes clear in his Statement of Objects and Reasons. He excludes their jurisdiction in certain matters: to this exclusion of jurisdiction the Opposition cannot reconcile themselves. It is a matter in which we cannot agree with the Government and if the Honourable the Leader of the House had cared to consult the High Courts themselves or the High Court of Calcutta, I am sure, he will get an opinion not wholly palatable to the Government of India. I need not say further than this, that the wording of clause 5 has sometimes made us think that the law, as Dickens said, is "an ass or an idiot", however much very clever and competent lawyers might try to give it a different appearance.

**Mr. S. C. Mitra:** Sir, I support the motion of my friend, Mr. Sen. It is strange that the Head of the Law Department of the Government of India is anxious to leave the meaning of the clause that we frame here to the sweet will of the judges. I think it is the function of the Legislature to make distinct and clear what they want to enact. If I understood him right, the Honourable the Law Member said definitely that he was not anxious to say how much was kept reserved for section 107 of the Government of India Act and how much was being taken away under the sections in the Criminal Procedure Code for revision. He likes to leave it for the individual judges in Courts to decide; and he is going, I see, to move a amendment where he says, provided always that nothing herein contained will affect any power of the High Court under the section of the Government of India Act which we have no right to take away by this Legislature. On a similar occasion, when the Ordinance Bill was passed

into law, he accepted a similar amendment. The drafting power of the Legislative Department seems to be improving every day. Whenever they are tackled with a question, they say "We will make a provision saying that what is not illegal is legal; and what is not taken away by this section is not taken out by this section." This sort of subterfuge, I think, should be the last function of any Legislature. We should definitely say what powers we are taking away by this present clause and what is left under section 107 of the Government of India Act. A distinguished lawyer like the Honourable the Leader of the House is hesitating, though challenged times without number by my Leader, Sir Abdur Rahim, to say what is left under that phrase "the power of superintendence of the High Court," if the rights under the revisional sections of the Criminal Procedure Code are taken away—every time the Leader of the House failed to make any point; and he left it to the people at large and to every Court to interpret it in its own way. I think we shall fail in our duty if in this clause we do not say that these are the rights that are being taken away and these are the powers left out. You, Sir, very judiciously and ably pointed out that this clause 5 was simply ridiculous and that we should not have said with our eyes open that the powers which we could interfere with should not have been interfered with; and I think you will gladly give a chance to the Honourable the Law Member to submit further amendments, if necessary, to make that point perfectly clear as to what rights of the High Court by this particular clause he wants to take out. Sir, if that is not done, I think the best way would be to delete this whole clause.

**Pandit Satyendra Nath Sen** (Presidency Division: Non-Muhammadan Rural): Sir, in spite of the amendment to be proposed by Government, this clause, as I have understood it, is open to serious objections: firstly, it interferes with the revisional powers of the High Court; then it interferes with the ordinary law of the transfer of cases; and then it takes away the *Habeas Corpus* which is of the utmost importance in these days of high-handed oppression. These are the legal grounds, and they have been ably and elaborately dealt with by my lawyer friends. I am not going to make any further observations on those points. I shall confine myself to the removal of some misconceptions of Honourable Members of this House. We are opposed to this clause, not because we plead for any leniency to the political terrorists as was stated on the last occasion by my Honourable friend, Major Nawab Ahmad Nawaz Khan, nor because we are indifferent to the activities of terrorists as was stated by the Honourable the Home Member. As to the first point, I should say that no one on this side of the House has ever pleaded for leniency to the terrorists. The only thing that we have pleaded for is that the accused person should have a fair trial, and that he should not be denied that privilege. Personally speaking, I and many other laymen of my way of thinking make very little distinction between a successful murderer and an unsuccessful murderer. It is people like my revered friends over there that make these distinctions by their nice knowledge of law. However, they have accepted this principle so far as political terrorists are concerned, but they have not accepted this principle in regard to non-political terrorists, I mean the dangerous *goondas* who infest our cities knowing full well that they are quite safe and secure under the present British Government whose attention is solely concentrated on political suspects.

**Mr. K. Ahmed** (Rajshahi Division: Muhammadan Rural): There is already the Goonda Act passed in Calcutta.

**Pandit Satyendra Nath Sen :** In spite of that, there are still many of them making a lot of mischief every day. I should only ask the Honourable the Home Member to judge which of these two classes of criminals are more dangerous—an accidental terrorist actuated, though erroneously, by a lofty ideal according to his own light, or the habitual murderer actuated by the meanest of motives?

As to the second point, the Honourable the Home Member asserted that we are utterly indifferent to the activities of the terrorists, our reply is that we are not at all indifferent to their activities. We read the reports in newspapers and we always shudder. In fact we are actually tired of taking an account of all these acts of terrorists committed on this side and on that side, and we confess that we have ceased to be as sensitive about these acts as we used to be five years ago. Our position is lamentable. We only pray that we should be allowed to live in peace. There is no denying the fact that most people have lost faith in British justice . . . .

**Sir Abdulla-al-Māmūn Suhrawardy** (Burdwan and Presidency Divisions : Muhammadan Rural): In the High Court also?

**Pandit Satyendra Nath Sen :** The other day when I was narrating the story of a girl who fell a victim to the hooligans at Chittagong, the Honourable the Home Member inquired whether that case was brought before the Court. Sir, I unfortunately, being a back bencher, failed to catch his words, otherwise I would have told him at once that such cases are not brought before Courts. People have lost faith in British justice, especially in cases where the Government are directly or indirectly interested, although there are other grounds too, namely, Indian ladies are not accustomed to bring such cases before any Court, and it will be an utter impossibility to name and identify unknown accused person or persons in a general riot in which innumerable *goondas* take part. However that may be, it is not a very important point here.

As to the clause itself, I shall be very brief. I only submit that if the Government will insist on this clause, it will remove even the least faith that still remains in the minds of some people about British justice. If a person deserves to be imprisoned, let him be by all means, but you should see that no miscarriage of justice is committed in the name of speedy trial. What is the harm if the man is sent to prison today or one month hence after the public have been satisfied that the accused person has been given a fair trial? With these words, I support the amendment.

**\*Mr. S. G. Jog** (Berar Representative): Sir, I had no mind to go into the velocity of this terrorist movement; whether the terrorist movement is good or bad, I have no mind to enter into the details. The Bill has been passed by the Bengal Legislative Council, and I do not wish to enter into the merits of that question at all, but I think I shall be failing in my duty if I do not rise and have a sort of revolt against the measure that is before the House in respect of clause 5. It is no doubt true that the Honourable the Law Member has suggested three alternatives which say that the operation of section 107 of the Government of India Act will

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\*Speech not revised by the Honourable Member.

not be affected, or some such thing. I do not think that any such alternatives are necessary. The powers which the High Courts have will still be there in spite of the alternative suggestions by the Honourable the Law Member. So there is no point in making all these three alternatives and trying to minimise the effect of clause 5 which finds place in this Bill. There has been a tendency recently in all these emergency or summary legislations to take away the powers of the High Courts. As was just observed by my Honourable friend, people in this country have been gradually losing faith in the Magistracy of British India, but people have not as yet lost their faith in the High Courts established in India, and the only hope that the public at large still have is to get justice at the hands of these High Courts Judges, but from the attempt that is sought to be made by these alternatives it would appear that the executive Government are rather afraid of these High Court Judges, and I should think it is the executive Government who have lost faith in these High Court Judges, because if any wrong is done by the executive authority, there is every chance of its being remedied in the High Court which probably the executive authorities do not want. I think clause 5 is virtually a sort of no-confidence motion in the High Courts established in India. The whole foundation of the British Empire is based and it still remains on British justice and British fairplay. If by such measures as these, you want to take the powers of the High Court, if you want to interfere with the powers of the High Courts, I think people will be justified in losing all faith in British justice and British fairplay. It is no doubt true that you say in your Notes on Clauses that:

"The provisions of this clause are not capable of enactment by the local Legislature in so far as they affect the jurisdiction of the High Court. They exclude interference of a nature likely, if exploited, to diminish the efficacy of action taken under the local Act, and are intended to ensure the speedy trial of terrorist offences "

I do not think there is any sense in the observations made here. If appeals are made to the High Courts, I do not think they will take more than a month or so to decide them, and even if the matter is delayed for the sake of justice, that will not matter at all. That delay is absolutely necessary, and whatever the measure is, if you want to proceed in the name of ensuring speedy result or for any other object, I think we on this side of the House are not prepared to agree to the retention of clause 5. I wholeheartedly support that clause 5 should be deleted, and the ordinary powers that are vested in the High Courts should be allowed to have their fair play. Rightly or wrongly the Act is there, and we have to submit to it, but at the same time any encroachment upon the powers of the High Courts, I think, we on this side of the House are not prepared to concede. With these words, I support the amendment that clause 5 should be deleted.

**The Honourable Mr. H. G. Haig** (Home Member): I could have wished  
 1 P.M. that my Honourable friends, the Leader of the Independent Party and Mr. Lalchand Navalrai and other learned Honourable Members, had spoken before the Honourable the Law Member had addressed the House, for their learned arguments deserve equally learned replies. Unfortunately, on this side of the House we have not at our disposal the same wealth of legal talent that distinguishes the opposite Benches. They must, therefore, I am afraid, be content with the reply of a layman.

[Mr. H. G. Haig.]

There seems to be some misunderstanding as to what we seek to do by this clause. We do definitely propose to take away the powers of the High Court as conferred by the Criminal Procedure Code and the Letters Patent, and to leave those general powers which are conferred by section 107 of the Government of India Act. Now, Sir, we do not concede that what we are doing will be without any effect. We think that in fact the result of this clause will be to prevent those dilatory motions which frequently are made in the course of trial for the sake of delaying disposal of cases, and that in various other respects the multiplicity of proceedings which characterise our present legal procedure will be shortened. For that we consider that there is very full justification. Most of the Honourable Members who addressed the House—except Pandit Satyendra Nath Sen—most of the Honourable Members who addressed this House omitted to remark that this procedure was directed against a particular class of offences, a limited class of offences. The argument, as it was addressed to the House from the other side, it seemed to me, was a general argument very suitable if we had been proposing to amend our normal procedure. But we are not proposing to amend our normal procedure, but only in certain special cases to speed up the decision of trials. Those cases are defined in the Bengal Suppression of Terrorist Outrages Act—cases in which there are reasonable grounds for believing that any person has committed a scheduled offence in furtherance of, or in connection with, the terrorist movement. It has been suggested that the powers that are conferred on the Magistrates are excessive, because the revisionary power of the High Court is being curtailed. But, Sir, the substantial rights of the accused remain. The accused has a fair trial under normal procedure before a Magistrate, and in every case he has a right of appeal, whether it is to the Court of Session or to the High Court. That being so, we consider that there is no danger that he will not get in fact substantial justice. Sir, I oppose the amendment.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question which I have to put is:

“That clause 5 of the Bill be omitted.”

The Assembly divided:

AYES—28.

Abdul Matin Chaudhury, Mr.  
 Abdur Rahim, Sir.  
 Azhar Ali, Mr. Muhammad.  
 Bhuput Sing, Mr.  
 Chetty, Mr. R. K. Shanmukham.  
 Dutt, Mr. Amar Nath.  
 Gunjal, Mr. N. R.  
 Ibrahim Ali Khan, Lt. Nawab  
 Muhammad.  
 Ismail Khan, Haji Chaudhury  
 Muhammad.  
 Isra. Chaudhri.  
 Jadhav, Mr. B. V.  
 Jogi, Mr. S. G.  
 Lalchand Navalrai, Mr.  
 Misra, Mr. B. N.

Mitra, Mr. S. C.  
 Muazzam Sahib Bahadur, Mr.  
 Muhammad.  
 Murtuza Saheb Bahadur, Maulvi  
 Sayyid  
 Parma Nand. Bhai.  
 Ranga Iyer, Mr. C. S.  
 Reddi, Mr. P. G.  
 Reddi, Mr. T. N. Ramakrishna.  
 Sarda, Diwan Bahadur Harbilas.  
 Sen, Mr. S. C.  
 Sen. Pandit Satyendra Nath.  
 Singh, Mr. Gaya Prasad.  
 Sitaramaraju, Mr. B.  
 Thampian, Mr. K. P.  
 Uppi Saheb Bahadur, Mr.

NOES—55.

Abdul Hye, Khan Bahadur Abul  
Hasnat Muhammad.  
Acott, Mr. A. S. V.  
Ahmad Nawaz Khan, Major Nawab.  
Allah Baksh Khan Tiwana, Khan  
Bahadur Malik.  
Amir Hussain, Khan Bahadur Saiyid.  
Anklesaria, Mr. N. N.  
Anwar-ul-Azim, Mr. Muhammad.  
Bajpai, Mr. G. S.  
Bhore, The Honourable Sir Joseph.  
Bower, Mr. E. H. M.  
Burt, Mr. B. C.  
Dalal, Dr. R. D.  
Dudhoria, Mr. Nabakumar Sing.  
Dunn, Mr. C. W.  
Dutt, Mr. G. S.  
Fazal Haq Piracha, Shaikh.  
Fox, Mr. H. B.  
Greenfield, Mr. H. C.  
Gwynne, Mr. C. W.  
Haig, The Honourable Mr. H. G.  
Hezlett, Mr. J.  
Hudson, Sir Leslie.  
Ismail Ali Khan, Kunwar Hajee.  
Jawahar Singh, Sardar Bahadur  
Sardar.  
Lal Chand, Hony. Captain Rao  
Bahadur Chaudhri.  
Mackenzie, Mr. R. T. H.  
Macqueen, Mr. P.  
Meek, Mr. D. B.

Metcalfe, Mr. H. A. F.  
Mitchell, Mr. D. G.  
Mitter, The Honourable Sir  
Brojendra.  
Moore, Mr. Arthur.  
Morgan, Mr. G.  
Mujumdar, Sardar G. N.  
Mukherjee, Rai Bahadur S. C.  
Nayudu, Rao Bahadur B. V. Sri Hari  
Rao.  
Noyce, The Honourable Sir Frank.  
Pandit, Rao Bahadur S. R.  
Rafiuddin Ahmad, Khan Bahadur  
Maulvi.  
Rajah, Rao Bahadur M. C.  
Rajan Bakhsh Shah, Khan Bahadur  
Makhdum Syed.  
Rastogi, Mr. Badri Lal.  
Rau, Mr. P. R.  
Ryan, Mr. T.  
Schuster, The Honourable Sir George.  
Scott, Mr. J. Ramsay.  
Sher Muhammad Khan Gakhar,  
Captain.  
Singh, Kumar Gupteshwar Prasad.  
Singh, Mr. Pradyumna Prashad.  
Sorley, Mr. H. T.  
Suhrawardy, Sir Abdulla-al-Mámún.  
Tottenham, Mr. G. R. F.  
Wajihuddin, Khan Bahadur Haji.  
Yakub, Sir Muhammad.  
Yamin Khan, Mr. Muhammad.

The motion was negatived.

**The Honourable Sir Brojendra Mitter:** Sir, I beg to move:

"That at the end of clause 5 of the Bill, the following *Proviso* be added:

'Provided always that nothing herein contained shall affect the powers of the High Court under section 107 of the Government of India Act.'

This amendment is necessitated by the ruling which you gave the other day and in order to clear all ambiguity with regard to what we are doing—that we are not doing anything to interfere with the powers which Parliament has conferred upon the High Court.

I do not see my Honourable friend, Raja Bahadur Krishnamachariar, here. He is under the impression that under section 107 of the Government of India Act, the High Court has only administrative powers of superintendence. Sir, that argument was adduced before the Bombay High Court in what is known as the Sholapur case and the Chief Justice held that the powers of superintendence were not limited to administrative matters, but extended to judicial matters, so that, under section 107, the High Court could exercise powers of revision. In what cases they would exercise those powers, that is for the High Court to decide. That is the point I made when I interrupted Sir Abdur Rahim, that it was not our function, but it was the function of the High Court to interpret the word "superintendence", what its scope or extent is. Recently, a similar case arose in Calcutta. The Chief-Presidency Magistrate convicted a person and he went up to the High Court under section 107. The Chief Justice

[Sir Brojendra Mitter.]

of Calcutta exercised powers of revision and set aside the conviction. Sir, I am not in a position to state the exact scope and extent of the powers under section 107. There is one word more I should like to say. I find there is an amendment tabled by Sir Muhammad Yakub. If he moves that amendment, I for my part will be willing to accept it, and if that amendment is accepted along with mine, it will completely meet your ruling. Sir, I move.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That at the end of clause 5 of the Bill, the following *Proviso* be added:

'Provided always that nothing herein contained shall affect the powers of the High Court under section 107 of the Government of India Act'."

The motion was adopted.

**Sir Muhammad Yakub** (Rohilkund and Kumaon Divisions: Muhammadan Rural): Sir, I move:

"That in clause 5 of the Bill, the words 'by whatsoever authority made or done' be omitted."

The chief objection to this clause has been that the words "by whatsoever authority made or done" might be interpreted as meaning that this clause is purported to take away the power which is vested in the High Courts by the Government of India Act, or by some other enactment over which this House has no authority. In order to remove all those misapprehensions, I move that these words be deleted. It does not require a long speech from me. I move my amendment.

**Mr. Lalchand Navalrai**: I fully support this amendment. As it is, the clause is wide and liable to mischief. Therefore, I support this amendment.

**The Honourable Mr. H. G. Haig**: As explained by my Honourable colleague, the Law Member, Government are prepared to accept this amendment.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in clause 5 of the Bill, the words 'by whatsoever authority made or done' be omitted."

The motion was adopted.

Clause 5, as amended, was added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

**The Honourable Mr. H. G. Haig**: Sir, I move that the Bill, as amended, be passed.

**Mr. Amar Nath Dutt** (Burdwan Division: Non-Muhammadan Rural): Sir, we have been asked to supplement the Bengal Suppression of Terrorist Outrages Bill . . . . .

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Will the Honourable Member please resume his seat? The Chair would like to know whether there are any other Honourable Members who wish to speak on the third reading.

(About four or five Honourable Members rose.)

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The House will now adjourn to Half Past Two.

The Assembly then adjourned for Lunch till Half Past Two of the Clock.

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The Assembly re-assembled after Lunch at Half Past Two of the Clock, **Mr. President** (The Honourable Sir Ibrahim Rahimtoola) in the Chair.

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**Hony. Captain Rao Bahadur Chaudhri Lal Chand** (Nominated Non-Official): Sir, with your permission, I want to give a personal explanation. On Monday, the 12th, I was unfortunately absent from this House owing to an unavoidable circumstance, and, in my absence, while the Honourable Pandit Sen was speaking, he made certain insinuations while interpreting my interjection in Mr. Mitra's speech. He asserted that the Bill may not be misapplied in Bengal and gave instances of brutality in Bengal where he alleged, even the chastity of females was being violated in a most brutal and vindictive manner. He further said that when these things were being narrated the other day by Mr. Mitra, one of the Nominated Members (meaning myself) interjected by saying: "Is there no rent campaign going on there?" He further said: "The Honourable Member evidently wanted to suggest that rent or taxes could be and should be realised by violating female modesty". The interpretation put by my Honourable friend, Pandit Sen, on my interjection was not warranted by facts and was wholly misleading and unfounded. I have got a copy of the report of the proceedings of the 3rd December which contains the speech of Mr. Mitra. His speech appears on pages 2850-55. On page 2852, after narrating certain incidents in which the chastity of women was attacked, the Honourable Member proceeded as follows:

"Now, I shall deal with cases of wanton destruction of property."

This appears on page 2852 of the report. He then narrated ten instances where property had either been taken away, destroyed or attached according to his narration. In the third paragraph of those narrations, he quoted an instance where, for the realisation of a tax, which amounted to Rs. 24-9-0, paddy weighing 320 maunds were taken away. It was after ten instances that I made the interjection that was referred to by the Honourable Pandit Sen. All these instances related to property only and not to the violation of the chastity of women or attack on women at all. There is not a word even with regard to the presence of females in those 50 lines wherein the Honourable Mr. Mitra described those 10 instances relating to property only. I naturally felt that a man who was possessed of 320 maunds of paddy which was worth over a thousand rupees should be in a position to



[Hony. Capt. Rao Bahadur Chaudhri Lal Chand.]

pay Rs. 24-9-0, as his tax, and if he did not pay it, then it meant that he was not *willing* to pay it and, therefore, I interjected and asked: "Why are people not paying this small tax when they have got this property?" That was my meaning. I never went further than that and the interpretation put by my Honourable friend, Pandit Sen, on this interjection is wholly unwarranted. Before I sit down, Sir, I have to thank you for allowing me this opportunity of explaining my position and I hope my friend, Pandit Sen, also by now must have seen the report and will now withdraw his remarks. (Applause from Official Benches.)

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The Chair has taken the trouble to look into the proceedings which led to the remark which the Honourable Member (Pandit Sen) made on the previous occasion. While the Chair stands for the freedom of speech in this Assembly, it cannot allow such unwarranted and unfounded allegations to be made by one Honourable Member against another Honourable Member. The Chair is satisfied that the inference drawn by the Honourable Member, when Mr. Mitra was interrupted, was wholly unjustified. The Honourable Member should have realized that the interruption which was "Are these instances of operations during the no-tax campaign", was merely for obtaining information. The Chair, therefore, calls upon the Honourable Member (Pandit Sen) to express his regret to the Honourable Member for having made those remarks.

**Pandit Satyendra Nath Sen:** Sir, I beg to submit and to assure my Honourable friend particularly that nobody in this House will be more glad than myself to know and to see that the remark made by him on that occasion referred only to the breaking of furniture, etc., and not to the other series of mischief referred to there. I am very glad to assure my Honourable friend that he did not mean what I supposed he did. I express my regret and I shall shake hands with him when I meet him.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member should also withdraw his remarks.

**Pandit Satyendra Nath Sen:** I withdraw my remarks, Sir.

**Mr. Amar Nath Dutt:** We have been asked to pass a Bill which is entitled a Bill to supplement the Bengal Suppression of Outrages Act, 1932. Sir, it has passed its first and second reading and it has also been amended by the Movers of the Bill themselves. My Honourable friend, the *ex-Speaker*, has also amended certain clauses. Sir, the very title of the Bill takes one's breath away, because we have been asked to supplement an Act which has now become the law of my unhappy province which is the very negation of law. I may at once say what I mean. In Bengal, people are not living under the rule of law. I see Honourable Members not belonging to this land and who have no right to be in this land laughing. They will laugh, no doubt, because it is certainly a thing of happiness if one can be where he has no right to be and enjoys his life at other's expense. But, after all, if they had some good sense still left in them, they would have been more careful to hide their laughter and express regret. Be that as it may, I merely submit, if the whole world were for the passing of this Bill of my Honourable friend, the Home Member, I alone shall stand against him . . . .

**Sir Abdulla-al-Mámūn Suhrawardy:** *Contra mundum*—against the whole world!

**Mr. Amar Nath Dutt:** *Ambulando* and such other Latin phrases may be sonorous, but I confess I have no knowledge of Latin. If I were to give before this House what we have been asked to supplement, I think no sensible man will ask us to supplement an Act like this. The Bengal Terrorists Suppression Act, which has now become law and to supplement which we are legalising here, consists of not less than 84 sections . . .

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member must remember that the Bengal Act is not before the House and, therefore, any detailed discussion of the Bengal Act is not in order.

**Mr. Amar Nath Dutt:** I will not have a detailed discussion, but I will have to state things about it in order to bring out my points with reference to this Supplementary Act; and if that is not permitted . . .

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The Chair never stands in the way of Honourable Members giving full expression to their views. There are only one or two sections of that Act which are proposed to be supplemented. This Bill proposes to supplement those provisions of the Bengal Act which deal with legal procedure; and the Honourable Member is entitled to refer to them only. The merits of that Act cannot be discussed here.

**Mr. Amar Nath Dutt:** With due respect to the Chair, I may submit, that this Supplementary Act deals with respect to appeals and . . .

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Exactly: the legal procedure.

**Mr. Amar Nath Dutt:** . . . and in speaking about appeals, certainly I will have to incidentally touch on matters about which the appeals shall lie and I trust the Chair will allow me to refer to that extent . . .

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Anything that arises out of this Bill is relevant—nothing more.

**Mr. Amar Nath Dutt:** I must first thank the Honourable the Home Member as also the Law Member for kindly incorporating clause 3 in the Bill with which I am in full agreement; and, in fact, the Statement of Objects and Reasons which the Honourable Mr. Haig has given would at once lead us to think that it is only because the Bengal Government have no power to pass legislation which affects the jurisdiction of the High Court of Judicature at Calcutta that it is necessary to supplement that Act by an Act of the Central Legislature, to provide for appeals to the High Court in certain cases: and to exclude their jurisdiction in other matters and, as they say, the sting is in the tail, and I would have been indeed more grateful to the Honourable the Home Member if this small line had not been there. If I rise to oppose this, it is only because of that small line which has given birth to clauses 4 and 5 in the Bill before the House. About these two clauses, there were amendments to delete. I submit, it would have been well if the Government had seen their way

[Mr. Amar Nath Dutt.]

to accept the amendments and thereby to get unanimous support to a Bill for which in certain respects they deserve our grateful thanks. But what he gives in one hand, he takes away by another. Clause 3 provides for appeals. I do not know who is responsible for the framing of the draft of this clause, but here I find a little partiality shown to the Presidency-town of Calcutta which is the town of my Honourable friend, the Law Member; but he has not shown the same consideration to towns to which we humbler folks belong; and here we find in clause 3, they say, that any sentence passed by a Special Magistrate in any trial held under the Local Act in the Presidency-town of Calcutta, all appeals shall lie to the High Court; while not so in the case of all sentences passed by Special Magistrates in the mufassil. Of course this is probably a natural bias for one's own town . . .

**The Honourable Sir Brojendra Mitter:** In Calcutta there is no Sessions Court; therefore, all appeals must go to the High Court.

**Mr. Amar Nath Dutt:** So, at times, one may be surprised; had that not been so and we in the mufassil had been given this right, there was nothing to debar him from extending the same rights which his own fellow citizens will enjoy in the Presidency-town of Calcutta and that would not have been illegal. However, I will not grudge him this right for his City; and, in spite of that, I say, that we have no objection to this; but if I rise now to oppose the passing of the Bill, it is because of these two other clauses, namely, clauses 4 and 5 which take away the rights of the injured people to have indemnity for wrongs inflicted on them by clause 4. Already the Government servants and officers know that they are exempt from all punishment. They are immune and they know that from the highest to the lowest all will come to the rescue if any complaint is made against them. That being so, to give them an assurance from before the commission of an act of aggression and tyranny and to say "Do whatever you like; there is no power on earth which can touch a hair of yours", will it not encourage more lawlessness in the ranks of those who are expected to keep law and order? I do say with emphasis that the lawlessness of the present day Government officers is almost unbearable, beginning from legislative acts which is lawless legislation, to executive acts. That being so, I submit that in spite of clauses 2, 3 or 1, I am unable to acquiesce in the passing of this Bill.

With regard to clause 5, much legal argument has been advanced on both sides by eminent lawyers like my Honourable friend, the Law Member, and an *ex-Chief Justice* of the High Court, and I will not waste the time of the House by dealing with the *ultra vires* nature of clause 5, but let me point out that the Government will lose nothing if they do not retain clause 5; on the other hand, by deleting this clause, they will keep some vestige of British justice in the land. I do not know whether they will care to do this, but I may repeat again that they will lose nothing if they delete clause 5. Further, Sir, by the enactment of this law, I may say, the terrorists will not gain or lose anything either, because the whole trend of this Bill is this. You assume in the first instance that particular individuals are terrorists according to your idea, you presume before hand, before trial, and then, according to the Act which you are supplementing, you form a Bench of Special Magistrates. It is pre-judging the case. I submit, that this is a procedure unknown to any

civilized system of judicial administration in any land, not to say of that land from which the Honourable the Home Member comes and for whose judicial system we all have the highest respect and admiration. It has often been a source of regret to us that Englishmen who are fond of liberty and freedom in their own homes should become otherwise as soon as they cross the English Channel, and this is more noticeable in their administration of India than elsewhere. I will again ask them as Englishmen to remember the land of their birth, its traditions, and its history and not to enact laws which are not in conformity with the ideas and traditions of their own land. If I am appealing to my English friends, it is because I want to point out that an Act like this was not introduced in England even under that regime known as Dora. That being so, it will be too much for friends over there to expect Members on this side to support an enactment which belies all civilized system of jurisprudence. With these words, I oppose the passing of this Bill.

**Mr. S. C. Mitra:** Sir, I agree with my friend, Mr. Amar Nath Dutt, in opposing the passing of this measure. We have made our viewpoint clear, and I repeat it again today, that we do not think drastic legislation is any remedy for the political distemper that now obtains in the province of Bengal. We have been asked not merely to be destructive in our criticisms, but even to suggest any remedies we could think of. I have said that the best remedy to fight terrorism is a clear declaration from Government that India will have full Dominion Status on the conclusion of the R. T. C., that there will be at least Central Responsibility, whether there is any Federation or no Federation to begin with. From the line of action that is being taken, as it is reported from day to day in the press, it would appear that the R. T. C. is more anxious to extend the Ordinance regime not to six months but to keep it permanently, and this will certainly not help in easing the situation in India. The other thing is, my friend, Mr. Sen, asked yesterday, that the rule of law should be fully established, and that is particularly the reason why we are fighting this particular piece of legislation by which the right of appeal to the High Court will be denied in future.

Sir, we know that we have a constitutional right in criminal cases to appeal to the Judicial Committee of the Privy Council. So far as I remember, never was any Indian applicant successful in getting any remedy, yet it is known how Indians still value this constitutional right that in extreme cases, not only in Civil, but in Criminal cases also, they go to the Privy Council. So it is no use arguing that you will not be curtailing the liberty of the High Court, and as the Honourable the Home Member stated in his speech the other day, the High Courts will not even entertain these applications, yet this is a right, and there is no reason why it should be curtailed by any Legislature. It has been repeatedly said that the object of speedy trial will be achieved when the Special Magistrates finish the trials. It is only a question of appeal, and so why should there be this suspicion, why should you have legislation after legislation in this House? There is some provision like the Indemnity Bills that follow martial law that the jurisdiction of the Courts, both Civil and Criminal, should be barred. If necessary, and if time will permit, I shall quote from authorities from all lands to prove how jealously the independence of the Courts has been guaranteed in the constitution of all countries. The other remedy that is not strictly relevant in this connection is about the exploitation of India. I shall not go in detail on that matter, but I shall

[Mr. S. C. Mitra.]

only say that the main reason why terrorism is making such rapid strides in this unhappy land is because of the extreme poverty, the starving condition of the vast masses of the people. There is no occupation for the educated unemployed, and it is in the interests of the Govern-

3 P. M. ment to see that the cow that supplies the milk is not killed for the mere enjoyment of having good meat for a day or two. India has tolerated every kind of government so long as she had enough to eat and clothe her nakedness, but now we have reached the extreme limit. I have digressed from the main subject, and so I leave it at that.

It has been asked, what is the true remedy for terrorism, and I tell the Government what that true remedy is. It is very easy to get palatable words and Government have enough of them from many of my friends here, but as statesmen the Government should bear with us when we draw their attention to the other side of the picture. What policy have the Government themselves got in respect of this terrorism? In Bengal, we have hundreds of young men, brilliant graduates who, in any other country, where there are manufacturing industries opened, would be well employed, but India being a wholly agricultural country, provides no scope for those youths even to get sufficient food and clothing. These young men are kept in prison for months and years, and in some cases, with only a few months' interval, they are 10 or 12 years in prison, and what plan have the Government to settle them in life? Do they realise that some day these young men shall have to be let loose on the community? Will they not add to the bitterness in the minds of these young men if they are now clapped in jail for years on mere suspicion? You will be surprised to hear that even interviews are not allowed to these young men. I personally have been refused an interview, and, again, though I have applied to the Government of Bengal some two months ago, still they do not condescend even to reply whether they will grant the interview or not. Even though we try by these interviews to argue with these young men and make them understand that in a difficult situation Government have to take to drastic laws, what plan have the Government themselves got? My Honourable friend, Mr. Sen, suggested that there should be some sort of Committee like the Rowlatt Committee to go deeper into the root causes of this terrorism. But every time the Government have got only one remedy, and that is to bring in more and more drastic laws. As I said before, I repeat what I have said. Let them have martial law or even worse than that for some time and finish with it. But when they fail, why should not they give us a chance of trying in our own way?

There is another point to be considered. Take the case of my old teacher and friend, Sir Abdulla Suhrawardy. I know that in 1912 or 1913, he was under police suspicion, and he was about to be put under Regulation III, but he was saved by the then Governor of Bengal, Lord Ronaldshay, who had great esteem for his literary attainments. At that time, I know that even from the Government of India there was pressure on the Calcutta University, and it required all the strength of a man like the late Sir Ashutosh Mukerjee to prevent his being sent out from the Professorial Chair. I remember it well. It was Mr. Sharp, the then Secretary of the Education Department, who said that men like the late Mr. Rasul, Mr. Abdulla Suhrawardy, and Mr. K. P. Jayaswal must be removed from the professorships. But, by good treatment and consideration, Sir Abdulla Suhrawardy has recently been dubbed a Knight, and he is one of the

ornaments of this House. (*Sir Abdulla-al-Māmūn Suhrawardy*: "He is still under police surveillance.") But that is the fate even of Governors, and so he cannot much complain about it.

As regards the treatment that is meted out to these prisoners in jail, an accused can be sentenced even to seven years' imprisonment by a Special Magistrate. In the case of these political prisoners, it is harder than in the case of ordinary prisoners. There is a rule in the Jail Code that prisoners with more than five years' term, if they behave well during more than half the period, should have their sentence reduced by half. But, to our surprise, in the case of political prisoners, it has all along been denied. Everybody in this House knows that a life sentence means 20 years, but when the prisoners are transported to the Andamans or outside India, the period is 14 years. But all these rules are not applied to political prisoners. I can give instance after instance, but I refrain from doing so, because there is no time to do it.

Then, the hardships of these political prisoners about classification are well known. When this House agreed to classification, after consultation with the Leaders of Parties in the House, the Home Department decided that in classification the motive of the crime should not be taken into consideration, but that the status of the prisoner, his education, mode of life,—all these should be the criteria, but in the case of political prisoners, from whatever station in life they come,—they may be respectable ladies, or Members of the Legislature, even of the Central Legislature—they hardly get "A" class. That shows that the Government are vindictive in administering this law. Nothing will be attained by vindictiveness or by drastic laws. Government may congratulate themselves on the fact that they have controlled the Congress, that they have controlled Gandhiji's action. In this House, times without number, the Home Member said that the Congress adopted the resolution commending Bhagat Singh's action. What the Congress did for the people and for the Government during the last 45 years is all forgotten, and only one fact is remembered. Even in that case, let it be said to their credit, that the Congress condemned the action of the political bomb thrower, though it said that his object was a noble one.

Coming back to the original point about the rule of law, on which ground I object to the passing of this Bill, I say, by all means have a speedy trial against the political assassin. But why should not the same strong hand of the law be applied against the policeman who also kills unarmed men? What happened at Hijli? Santosh Kumar Mitra and another detenu . . . .

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The Chair does not wish to interrupt the Honourable Member, but wishes to point out again, as it has pointed out to Mr. Amar Nath Dutt, that this Bill deals with the legal procedure in supplement of the Bengal Act, and the Honourable Member will please restrict himself to that issue.

**Mr. S. C. Mitra**: I bow to your ruling, Sir. Because the powers of the High Courts are sought to be curtailed, I wanted to show how the powers of the Courts are being curtailed in every possible way and the rule of law has become a mere farce in this unhappy country. With these words, I conclude my observations.

**Mr. B. Sitaramaraju** (*Ganjam cum Vizagapatam*: Non-Muhammadan Rural): This Bill deprives the High Court of a large measure of power

[Mr. B. Sitaramaraju.]

which they have been exercising hitherto. If, under section 107 of the Government of India Act, the powers which the High Courts possess are exempted from the operation of this Act, it is not due to any consideration on the part of the Government, but on account of the ruling which, Sir, you gave the other day that it was not within the competence of this Legislature to deprive the High Courts of their powers under the Government of India Act. Besides the powers, which the High Courts have under section 107 of the Government of India Act, the other powers that they have are also very substantial powers and this Bill seeks to deprive them of those powers. I submit that a few months ago, when the Honourable the Law Member and we were discussing the very powers of the High Court under this section, the Law Member had himself said that it would be repulsive to any member of the legal profession to see that such powers of the High Courts were deprived. I share the same feeling, because, being a lawyer myself, I cannot but view with great abhorrence any attempt to deprive the High Courts of those powers, but I cannot agree with the Law Member as regards the necessity of taking away those powers now. Notwithstanding the assurances given by the Law Member that they held the High Courts in great esteem and that if they today found themselves driven to deprive the High Courts of those powers it was not because they held the High Court in less esteem, but because they said that there was an overriding necessity for speed. As you are aware, under the altered Bill, the High Courts still have the powers of superintendence under section 107 of the Government of India Act. I would like to ask the Government whether the powers that they have under this section would constitute in any way a greater delay than the powers which the High Courts can exercise under section 107. When once the point was conceded that it was not competent for us to deprive the High Courts of powers under section 107, and when we consider that those powers could and will be exercised, we must take into consideration also the fact that similar powers reserved under another Act could not be disposed of, because, by depriving them of those powers, the Government could not attain their object of speedy execution of law and order any more than what they have done. Therefore, I consider that this is merely an apology to say that they are going to have these powers taken away, because they want to attain speed. I consider that the real cause is that the Government are evidently unable to substantially prove the cases against some of these criminals and that they are afraid of the scrutiny of the High Courts. That seems to me the only explanation for depriving the High Courts of powers, because we know that the High Courts in this country have established a great reputation for themselves for their impartiality and even handed justice and that they are the only bulwark of a subject nation like ourselves to seek redress against executive wrongs. To take away that power today would only show that the Government are incapable of proving the guilt of the persons charged and are actually afraid of the scrutiny of the High Courts. Nobody denies the right of the Government to defend themselves and to protect the lives of the people. Nobody would say that Government should not take such action as is necessary for that purpose. They would be failing in their elementary duty if they did not protect the lives of the people. But, while we agree that the guilty should be punished, we are equally anxious that the innocent should not be punished. What security can we have other than

these powers of the High Courts to see that the innocent people are not made the victims of executive actions? Lawlessness is not a remedy for lawlessness. I believe that more outrages have been committed against Europeans under the Ordinance regime than before it. There must be some cause. What is that cause? Unless the Government can give security to the citizen that even handed justice will be done, it will be impossible for a subject nation to feel any respect for the law which they administer and if the Government are really sincere, I would like to ask this. The Ordinance Bill which we have passed would only come into force next year. During all these months, the Government of India have not elicited the opinion of the High Courts as regards these powers and when some Honourable Member on this side of the House suggested that the High Courts should be asked to express their opinion on this matter, it was refused. When the Ordinance Bill itself is to come into force next year and when it is quite possible for them to get the opinion of a few High Courts within a month or two, what necessity is there that this Bill should be passed immediately and why it should not wait till the beginning of the next year and be passed along with the Ordinance Bill if it is deemed necessary? Therefore, I consider that there is no point in saying that this Bill should be passed immediately. No case has been made out for depriving the High Courts of their powers to the detriment of justice. In these circumstances, I would be justified in opposing this motion.

**Mr. N. R. Gunjal** (Bombay Central Division: Non-Muhammadian Rural): (Speaking in the Vernacular, the Honourable Member opposed the motion.)

**Pandit Satyendra Nath Sen :** Sir, I rise to oppose the motion, although, as we see clearly, the Bill is going to be passed. This, Sir, is another illustration of the so-called "fair fight" of which the Honourable the Home Member spoke the other day and to which I made a reference in one of my previous speeches. These "fair fights" are now a frequent occurrence on the floor of this House. But those fights are between two parties placed under two totally different circumstances. On the one side, there is a band of devoted stalwarts assisted by allies won over from the opposite camp and under the able guidance of their General, and, on the other, a party of negligent pickets who are sometimes left without their Leader and whose number has now practically dwindled to about one-fourth of their original strength, and that even weakened by feuds and factions. Sir, both the Government and the people will now be in a position to heave a sigh of relief—Government, because of the fact that they are now fortified with these two Black Bills—this Bill and its predecessor, namely, the Ordinance Bill—to fight the people successfully, and the people, in the expectation that with these increased oppressions Swaraj will come soon. What the actual result will be, only the future will show. But it is clear that there will be no peace in the country for some time to come. We tried to advise the Government according to the best of our light, but they turned a deaf ear to our advice and we have all along been arguing our case before a piece of stone.

Sir, our apprehension is that this Bill will be utilised by Government as an engine of oppression and many young persons will be made victims of this Bill. We further apprehend that many civil disobedience



[Pandit Satyendra Nath Sen.]

prisoners also, who are certainly not in the good books of Government, will be challanned under this Act—I should call it an infernal Act,—which will be regarded by Government as a royal road leading to the gates of Purgatory and, with these certificates to their credit, those youngmen will at some later date be sent up to Paradise without much difficulty. Sir, we are utterly helpless and we look up to God for help. We put our faith in Him and wait. With these words, Sir, I oppose it.

**The Honourable Mr. H. G. Haig:** Sir, the arguments for and against this Bill have been very fully stated and we have discussed the causes and the remedies of terrorism. I do not propose to traverse that ground again. So far as I am concerned, I have nothing fresh to say to the House. Now, Sir, some of the Honourable Members who have spoken this afternoon have suggested that this Bill is contrary to natural justice and that it is inconsistent with any civilised system of judicial administration. I would just like the House to reflect that the procedure under this Bill consists in cases being tried by specially selected Magistrates not one of whom have had less than four years' experience as First Class Magistrates, and that in every case an appeal is allowed either to the Court of Session or, in the more important cases, to the High Court itself. The High Court is not excluded except in certain matters. There is in all the more important cases an appeal to the High Court.

Now, Sir, the Honourable Member who has just sat down, Pandit Satyendra Nath Sen, said that this Bill and the Ordinance Bill were measures by which the Government intended to fight the people. Sir, this measure, as I said in an earlier speech, is a small but essential link in the chain of action required for the suppression of terrorism and I do not believe, Sir, that the people of this country stand for terrorism.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That the Bill, as amended, be passed."

The motion was adopted.

#### THE INDIAN TARIFF (OTTAWA TRADE AGREEMENT) AMENDMENT BILL.

**The Honourable Sir Joseph Bhoré** (Member for Commerce and Railways): Sir, I beg to move:

"That the Bill further to amend the Indian Tariff Act, 1894, for certain purposes, as reported by the Select Committee, be taken into consideration."

There are a number of amendments on the notice paper and I do not propose at this stage to do more than to say that the unanimous report of the Select Committee is, I submit, conclusive evidence of the extent to which the Government were prepared to go to meet reasonable representations of my friends on the other side of the House.

Sir, I move.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Motion moved:

"That the Bill further to amend the Indian Tariff Act, 1894, for certain purposes, as reported by the Select Committee, be taken into consideration."

**Mr. B. Sitaramaraju** (Ganjam *cum* Vizagapatam: Non-Muhammadan Rural): Sir, at the very outset I must thank the Honourable the Commerce Member for the consideration and courtesy which he showed to us in the Select Committee. But some of us who were opposed to the principle underlying this Bill could not discuss it in the Select Committee. With your permission, we propose to discuss the principle underlying this Bill only at the third reading of it. Sir, we have tried our best as regards the proposals underlying this Bill to see how far we could contribute to mitigate what we consider some of the evils of this measure. Within the scope allowed to us in the Select Committee, we have tried our best to adjust the margin of preference.

A perusal of the Report of the Select Committee will show that we were working under two handicaps. One was the decision of the Legislative Assembly to guarantee the stipulated margin of ten per cent. to the United Kingdom and the Empire countries and the other was the incomplete statistical information we were given as regards the industrial production in the country. To these two handicaps, I must add that we had another difficulty. That difficulty was the want of information from the Indian industries themselves. Only a few of the Indian industries were able to represent their cases either in person or by correspondence. But, in the majority of cases, we have had no information at all as regards the need and the extent to which they would require the protection. To these three handicaps I must add that we had to face two more handicaps. One was the financial difficulties and the other was the administrative difficulties. The financial difficulties were that the Customs revenue, which is the mainstay of our Budget, had to remain intact and the administrative difficulties which we had to take into consideration were the difficulties which would present themselves in the Customs houses where the Customs officers have to distinguish between the articles to which preference has been given and those to which preference is not given. Further, they had also to distinguish these articles and to determine articles liable for preferential treatment by applying rules to be now made to determine Empire contents. Under these circumstances, we endeavoured our level best to see whether the four interests which should be safeguarded, namely, those of the consumer, the taxpayer, the industrialist and the agriculturist, were adequately safeguarded. In several matters, the interest of one was in conflict with the interest of the other. Subject to the limitations I have already mentioned, we tried to adjust the margin of preference.

I always felt that this was a matter for a Tariff Board Inquiry and now I am convinced more than ever that such an inquiry ought to have been held as a condition precedent to the acceptance of the scheme, because unless we have a thorough inquiry into the matter where business houses are examined and where every information that can be brought to bear upon it is collected, and where we can possibly give such reasonable protection as our industries stand in need of, anything that we might do might render the whole thing a mere farce. Holding that opinion, I appeal at this stage to the Honourable the Commerce Member and the Government of India that they do proceed to make a full compilation of all such industrial production in the country at least, so that it may be possible for the Committee which, under the direction of this Assembly, is to be constituted, to watch the effect of this margin of preference and

[Mr. B. Sitaramaraju.]

the possible adverse effects it may have on the indigenous industries, so that they may take such suitable action as they may deem proper. I must thank the Honourable the Commerce Member for the assurance that he has given in an earlier speech that representations from any Indian industry which needs protection will receive careful consideration at his hands.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That the Bill further to amend the Indian Tariff Act, 1894, for certain purposes, as reported by the Select Committee, be taken into consideration."

The motion was adopted.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That clause 2 stand part of the Bill."

**Bhai Parma Nand** (Ambala Division: Non-Muhammadan): Sir, I move:

"That in clause 2 of the Bill, in part (a) of the proposed sub-section (3B), before the word 'produce' the word 'genuine' be inserted."

The object of my moving this amendment is a very simple one and, if we look a little closely into the matter, we will find that this amendment in fact admits of no difference of opinion, as I simply want to add the word "genuine" before the word "produce".

In order to explain my purpose clearly, I want to go back to pre-war days. In those days, it was a matter of common knowledge that a very large quantity of chemicals that were used for medical purposes in India were originally manufactured in Germany: they were then imported into London by English factory owners, and from there were shipped out to India for sale here. I admit that there was no idea of preference in those days; but, in its place, there was another thing, namely, the prestige of name, in so far as that, English medicines or even other articles prepared in England were looked on with special favour in India for very apparent reasons; and that the doctors in prescribing medicines gave special instructions to their patients to get English drugs. In this way, the original manufacturer, Germany, got benefit from their sale to English traders and the English traders, in their turn, after labeling these very chemicals as "made in England", sent them over to India and made their own profits.

This thing was not confined to medicines alone. In international commerce, this trick has been used very often. For instance, we know that Italy was once very famous for the manufacture of violins and its violins were sold every where at very high prices. Japan, however, made such a perfect imitation of Italian violin and sold it so cheap, that the Italian manufacturers of violins found it very profitable and convenient to buy all these violins from Japan and then labeling them as "made in Italy" sold them out to various other countries at prices, sometimes as high as ten times the original rate at which these violins were purchased from the Japanese manufacturers. What I am afraid of, is that this preference may not be abused in some such way. I do not mean to bring any charge against English producers or manufacturers of commodities, but I

want to use this amendment of mine merely as a measure of caution against any such abuse of the preferences which are likely to come in force on account of this Agreement. As far as *bona fide* English manufactures are concerned, I think we stand bound by that Agreement to give certain preference to English goods; but that does not mean that the English producers or manufacturers should take advantage of this and get things from other countries, say Japan or Germany, and resell them to us with advantage on account of the preference which they have got from us for their own goods. Therefore, where it is said that the Government of India should make rules to determine if any article is the produce or manufacture of the United Kingdom, I want the word "genuine" to be added. If that is not done, the trouble would be that India not only shall be a great loser, but shall have to compete with so many countries combined, and that our indigenous industries will not only have to give preference to English industries, but will have to subject themselves to a very hard competition practically with all the manufacturing countries of the world. To avoid this trouble, Sir, I have suggested a simple way. I do not want that we should go in any way against the trade or interest of English producers or manufacturers of commodities. And this amendment does not interfere in any way with the original principle of the Agreement; it simply aims at, as a measure of precaution, to protect Indian industries from unfair competition and the Indian trader from these international tricks that are likely to result from it. I do not want to make any further speech on the subject. The matter is so simple and clear, that I expect that the Honourable Sir Joseph Bhore, who is in charge of the Bill, would gladly accept this simple amendment of mine. Sir, I move.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Amendment moved:

"That in clause 2 of the Bill, in part (a) of the proposed sub-section (3B), before the word 'produce' the word 'genuine' be inserted."

**Mr. S. G. Jog** (Berar Representative): Sir, since the time this Ottawa Agreement has been introduced in this House, there appears to have been a sort of confusion all round. When the Majority Report was placed before us, we found that they had not sufficient material before them . . .

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member is not speaking on the motion for consideration now. He is addressing the House on the amendment which the Honourable Member, Bhai Parma Nand, has put before the House, namely, the addition of the word "genuine" before the word "produce".

**Mr. S. G. Jog**: I quite appreciate the remarks made by the Chair, but before supporting my Honourable friend's amendment, I want to make the ground clear that the whole position is still in an unsettled state, and when we proceed further and begin to work this arrangement in practice, I think we will find that the real trouble has just begun. When we start working the whole Agreement and when the time comes for collecting the several tariffs, we will be faced with the real difficulty as to how to distinguish a genuine article from a spurious one, how much percentage there is in a certain article of Empire content and how much is adulterated, and so on. What I mean to say is that the real trouble has just begun. The formal part by the passing of this Agreement might have been finished, but the real trouble will begin now.

[Mr. S. G. Jog.]

It is no doubt true that provision has been made for rule-making power in accordance with the rules made under sub-clause (3B) for the determination of the produce and its genuineness, but even before doing that, I think the word "produce" should be qualified by the word "genuine" to start with. Then the difficulties of the administration will be very much lightened. There is always a difference between the general honesty and what is known as commercial honesty, which practically amounts to dishonesty, and when this Agreement is put into operation, many business centres will try to take full advantage of the preferences without being really entitled to such preferences. All this foul business will be brought into play when we start working the Agreement in the light of the tariff that has been introduced, and the caution that has been sounded by my friend, Bhai Parma Nand, is well worth serious consideration. I, therefore, submit that the word "produce" should be qualified by the word "genuine". Of course, by implication produce really means a real or genuine produce, but in these commercial matters I think we have to be very accurate and exact, so that there may be no ground for ambiguity. Sir, I wholeheartedly support the amendment.

**Mr. R. K. Shanmukham Chetty** (Salem and Coimbatore *cum* North Arcot: Non-Muhammadan Rural): Mr. President, my friend, Bhai Parma Nand, is evidently under a misapprehension regarding the operation of the whole scheme of Empire preference. Probably he is under the impression that any commodity that comes from England will be entitled to get preferential treatment irrespective of the fact whether the commodity has been manufactured in the United Kingdom or not. Though the scheme of Empire preference is new to us, this has been in operation in other Empire countries for some years. Canada, Australia and New Zealand have, for a number of years, given preferences to the commodities manufactured in the United Kingdom, and, in all these schemes of tariff preference, a commodity does not get preference merely because it is shipped from the country to which preference is given. Every commodity which is entitled to preference must satisfy certain tests regarding what is called the percentage of Empire content. An article coming from the United Kingdom and which is entitled to preferential treatment under the present Tariff Act would have to contain a certain percentage of Empire content. In other words, the value of that commodity, taking the raw material and the cost of manufacture together, must represent a certain percentage of the raw material produced in the United Kingdom or of the cost of production in the United Kingdom itself. This was one of the important questions which was discussed at the Ottawa Conference, and it was recognised by the Delegates at the Conference that as far as it is practicable, rules relating to Empire contents must be uniform throughout the Empire countries; but what exactly must be the percentage of Empire content to qualify for preference was a matter on which there was considerable difference of opinion. Ultimately it was decided that the whole question must be examined very carefully by all the Empire countries, and I take it that the Government of India, in accordance with that Resolution, will get into communication with the other Empire countries with a view to framing rules which will be, as far as possible, uniform throughout the Empire. In the meantime, until such uniformity is established, we have probably to copy the rules relating to Empire contents which are in force in certain other parts of the Empire. Clause 2 of the Bill provides,

for the making of the rules by the Governor General in Council with regard to the question of Empire contents, and I might tell my friend, Bhai Parma Nand, that under this clause the Governor General in Council will have to make rules defining the percentage of Empire content which alone will qualify a particular commodity for preferential treatment. The case that he mentioned of chemicals being purchased by a British merchant from Germany and re-shipped to India will not get a preference in this country . . .

**Bhai Parma Nand:** I said "with their own labels put on, to show that the articles were manufactured in England". That was a trick, and I want to prevent the occurrence of that kind of trick.

**Mr. R. K. Shanmukham Chetty:** Every commodity that is entitled to preference must be accompanied by a manufacturer's certificate certifying that it satisfies the percentage of Empire content as defined by the Governor General in Council under the rules, and I take it that the Government of India will have their own agents in the United Kingdom to check from time to time whether the certificate given under these provisions are genuine or not. Probably under the law of the United Kingdom any one who puts a false label is liable to be prosecuted. There is not the slightest danger of our being cheated in any such manner. I quite recognise that the object that my friend has in view is one which all of us have got at heart, but I would only submit to him that clause 2 which gives the Governor General in Council this rule making power is meant just to make provision for those cases which my friend has brought to the notice of this House. Under these circumstances, Sir, I would suggest to my friend that this amendment is really superfluous.

**Mr. Lalchand Navalrai (Sind: Non-Muhammadan Rural):** Sir, I support this amendment, and I am sorry I cannot agree with my friend, Mr. Chetty, who has just spoken. On this Ottawa Agreement, we are already groping in the dark. Sufficient materials are not before us or even before the Government to give us any assurance. This is a very small amendment which is meant to prevent any kind of fraud or cheating in practice. It may be that the Governor General in Council may make rules providing that certain quantities of the British materials should be certified, but the

4 P.M. apprehended deception is not a misgiving only, but my Honourable friend, the Mover, has given instances to show that certain things are taken from other countries, imported into British Islands, and are stamped actually as coming from Britain. If there are such frauds going on, I do not understand for a moment why a precaution like this should not be taken. It will do no harm if the word "genuine" before "produce" is put in the rules, because it will be a better check. I, therefore, fully support the amendment.

**Mr. B. V. Jadhav (Bombay Central Division: Non-Muhammadan Rural):** I agree with my Honourable friend, the Deputy President, that the amendment proposed is not needed. False labelling, as it has been called, may have been practised in former times when England was a free trade country and manufactures from Germany and other foreign countries were admitted free of tax into England and re-exported from there to other countries with the label that they were made in Britain. But, now, England is not a free trade country and there is an import duty, and that

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import duty is certainly higher than ten per cent. So, the importer in England will not purchase manufactured goods from Germany or other countries for the purpose of exporting the same to India and getting a preference of ten per cent., because in that case he will have to pay import duty into England. Therefore, it will not be found profitable for a person to falsely label "Made in England". As England is now not a free trade country, I do not think the fear entertained by my Honourable friend, Bhai Parma Nand, has any reasonable ground, and I, therefore, think that the amendment is not necessary.

**The Honourable Sir Joseph Bhoré:** If I oppose this amendment, it is not because I do not have sympathy with the object which I take it lies behind the amendment of my Honourable friend, Bhai Parma Nand. But my Honourable friend, Mr. Shanmukham Chetty, has explained with admirable clearness, the position in regard to certificates of origin necessary to qualify for preference. My point in regard to the amendment is merely this, that the word "genuine" is entirely redundant. It adds nothing to the meaning of the phraseology used in this clause. As a matter of fact, the rules that we propose to issue under this clause are for the very purpose of making clear what should be considered to be the produce of a country. The introduction of a word like "genuine", which is not in itself definite, would also require the insertion of an explanation to explain what the word itself means. It is for that reason, because it is otiose and redundant, that I object to the motion of my Honourable friend. The making of these rules is a matter of considerable difficulty. They must, on the one hand, not be so strict, and, on the other, not so lax, as to defeat the object of the parties to the Agreement. My Honourable friend, Mr. Chetty, may rest content that we shall bear in mind what has fallen from him in regard to this matter before the rules receive their final shape. It is on the ground of redundancy that I oppose the motion of my Honourable friend.

**Bhai Parma Nand:** I beg leave to withdraw my amendment.

The amendment was, by leave of the Assembly, withdrawn.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

Clauses 3 and 4 were added to the Bill.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That the Schedule stand part of the Bill."

**Mr. B. V. Jadhav:** I beg to move:

"That in the Schedule to the Bill, in amendment No. 47, in the proposed Part VIII, against item No. 173 for the figures and words '30 per cent.' and '20 per cent.' the figures and words '35 per cent.' and '25 per cent.', respectively, be substituted."

Item No. 172 is as follows:

"The following natural essential oils, namely, citronella, cinnamon and cinnamon leaf. 30 per cent., standard rate of duty; 20 per cent., the United Kingdom duty; and 20 per cent., British colony."

These essential oils are differentiated from other natural essential oils. As the oils, citronella, cinnamon and cinnamon leaf, are not manufactured in India, I am not at all concerned with them, but the other essential oils are manufactured in India, their manufactures are likely to grow and, therefore, that industry deserves some encouragement. At present the rates are 30 per cent., and if a ten per cent. be given as preference, then the duty will be 20 per cent. and the British goods will come in very severe competition with Indian made goods and, therefore, the manufacturers of these goods may suffer. Hence I propose that the duty should be raised higher. I am not against preference to British manufactures, but I want to preserve the advantage which the manufacture of essential oils at present enjoys, namely, 25 per cent. Therefore, I propose that the standard rate of duty should be 35 per cent. in the case of goods from all other countries and 25 per cent. in the case of goods from England. Sir, I move,

**The Honourable Sir Joseph Bhoré:** Sir, I would like at the outset to say that not only the commodity covered by this amendment, but those covered by every single amendment notice of which has been given were most carefully considered by the Select Committee and this case illustrates very clearly the difficulty of making a proposal without examining most carefully all its repercussions. As regards natural essential oils, I would point out to my Honourable friend that the consideration which operated very strongly in the minds of the Select Committee was the fact that these essential oils were largely used in manufacture. For instance, they are used in the manufacture of soap, perfumery, etc. We, therefore, felt that it was unwise to put the duty up on what was really a raw material of manufacture. Then, again, I would point out to my Honourable friend that there is the synthetic oil which is imported into this country and if you raise the duty on the natural oil and the synthetic oil comes in at the lower rate, it is going to compete very unfairly. For these reasons, the Select Committee, after careful consideration, decided that balancing all the interests concerned it was wiser to leave the figures at 30 and 20. I hope, in these circumstances, my Honourable friend will not press his motion.

**Mr. B. V. Jadhav:** I do not want to press my amendment.

The amendment was, by leave of the Assembly, withdrawn.

**Mr. K. P. Thampan** (West Coast and Nilgiris: Non-Muhammadian Rural): Sir, I beg to move:

"That in the Schedule to the Bill, in amendment No. 47, in the proposed Part VIII, item No. 176 be omitted and in the proposed Part IX, after item No. 224, the following new item be inserted:

‘SEEDS.				
225	Oilseeds, non-essential, all sorts not otherwise specified, including copra or coconut kernel.	<i>Ad valorem.</i>	35 per cent.	25 per cent.’”



[Mr. K. P. Thampan.]

Though this item deals with oilseeds in general, the most important and the one to which this amendment refers is what is called copra. Copra is the dried kernel of coconuts from which coconut oil is extracted. It is largely used for edible and toilet purposes. In the West Coast of India, in South Canara, Malabar, Cochin, and Travancore, industries connected with coconut in one form or other, play a very important part in the economic life of the people. There is the coir industry, the manufacture of copra and coconut oil and, lastly, the tapping of coconut trees for making toddy and sugar. These are the industries connected with coconut oil. You will bear with me, Sir, when I explain the importance of the subject in detail.

The area under coconut cultivation in India, according to the agricultural statistics of 1930, was one million 377 acres. Most of it is in South India where the acreage is one million 299 thousand acres. The industry is, therefore, practically confined to South India. Half of this is in Native States, mostly Travancore. Cochin and Mysore also contribute a little. In the year 1920, the acreage under coconut cultivation was only one million 201 thousand. You will, therefore, see that within the last ten years there has been an increase of one million 76 thousand acres under coconut cultivation. There is still considerable scope for increasing the coconut cultivation, though it must be said that the low lying parts of the plains of the sea coast are practically fully covered by coconut cultivation. For a distance of 30 miles from the sea coast, you can cultivate coconut even on hills and mountains. In North Malabar, particularly in Quilandy and other places near Tellicherry from where my friend, Mr. Uppi Sahab, comes, you can cultivate coconut even to a distance of 40 miles from the sea coast. It thrives very luxuriantly there. That is why I say, there is still considerable scope for expansion of the cultivation of coconut. What I wish to emphasise upon is, that this industry affects the happiness and welfare of more than 13 millions of people. The population of South Canara is more than two millions. That of Malabar is three millions and odd, Cochin and Travancore have more than six millions. People in the borders of Mysore also depend upon the cultivation of coconut. So, there is a large population which is dependent on the industries connected with coconut. The subject is not a thing which can be lightly ignored. On the West Coast, the most important source of income to the ryots is the coconut tree. To understand the question, in all its bearings, it is necessary to examine in some detail the economic condition of the people concerned. In Malabar, the resettlement was brought into force last year. Though, under the rules of the settlement, only 18½ per cent. is the maximum increase which the Government can make at the time of a resettlement, the effect of the rules and other things has been such that the increase works out at nearly 50 per cent., because they change the classification and taram of a garden or holding and increase thereby the rate of assessment. I shall refer to a particular instance of mine.

A garden, for which I used to pay Rs. 7½ hitherto, has been by a trick of, what I may call, an administrative legerdemain, assessed to Rs. 50, that is more than 700 per cent. I preferred an appeal to the Revenue Board with no effect. The settlement was introduced last year in defiance of public opinion at a time when there was acute financial stringency all over the country. In the Madras Legislative Council, our representatives

were able to pass a Resolution requesting the Government to hold over the introduction of the new settlement until the economic condition improved. The Resolution was passed with an overwhelming majority. Still, the Government did not give effect to it. While the land revenue was increased by 50 per cent., the income of the ryot decreased considerably from all sources. With the prohibition propaganda going on in the country and with effective picketing, people are not allowed to give the trees for tapping, with the result that their income from that source has considerably gone down. The price of the coconut itself has depreciated by 100 per cent. to 120 per cent. I was myself selling coconuts two years ago easily at Rs. 60 a thousand. Last year it was only Rs. 25 a thousand. That is the plight to which the ryot is reduced as regards his income. But, with the direct and indirect taxation, the cost of bare necessities of life has not in any way decreased, and the problem of existence has thus become really very difficult for him. Under such circumstances, I maintain, our duty is to safeguard and protect his interests and not add to his difficulties.

Another item connected with the coconut industry, with which this Bill deals, is the coconut oil. All aspects of the subject were completely threshed out in the Select Committee, and I must take this opportunity to express my thanks and gratitude to the Committee and to the Government for accepting my suggestions with regard to the coconut oil.

Copra is equally important, if not more, from the producer's point of view. Sir, the Bill, as drafted and recommended by the Select Committee, proposes to fix a 20 per cent. *ad valorem* duty on colonial and 30 per cent. on foreign imports. At present the ruling rate is 25 per cent. In other words, the Bill aims at reducing the rate from 25 to 20 per cent. so far as the colonial cultivator is concerned and increasing it to 30 per cent. against foreigners. My suggestion is that the present duty of 25 per cent. might be continued for British products and 35 per cent. be fixed for the products of foreign countries, and thereby maintain the principle of preference underlying the Agreement adopted at Ottawa. Sir, Ceylon is the only country that imports copra into this country and competes in this matter with our indigenous product. Of course, there are one or two other countries also, but their import is nominal and they may be ignored from consideration, and, for the purpose of our discussion, it would be sufficient if we restrict ourselves to Ceylon. Let me, again, quote some figures. In the year 1930-31, we imported from Ceylon only 58 tons valued at Rs. 21,000. But then, in the next year, namely, in 1931-32, we imported 1,248 tons valued at Rs. 2,20,790. The figures for 1932-33 are not available here; but I am told the increase in 1932-33 has been phenomenal. I am indebted for this information to a Ceylon newspaper, namely, the *Ceylon Daily News*, published in Colombo. I find in its issue, dated 19th November last:

"The value of the exports of copra from Ceylon to India in 1931 was only Rs. 1,64,423. For the ten months ending October 31 of the present year the value of copra exports from Ceylon to India had reached Rs. 20,63,920. In October alone, copra to the value of Rs. 7,95,803 was exported from this country to India. The figures for coconut oil are even more impressive. In the memorandum addressed by the Indian Merchants Chamber to the Government of India, it is pointed out that India's imports of coconut oil had risen from 30,241 gallons in the first six months of 1930 to 3,035,516 gallons in the first six months of the present year."

This is indeed a phenomenal increase, which neither the Government nor any commercial organisation has cared to explain. It might be an

[Mr. K. P. Thampan.]

accident, perhaps owing to the failure of crops in South India during the last two years and, God willing, old conditions could be revived. Sir, what I wish to impress on the House and lay emphasis upon, is that this increase has taken place under the present tariff duty of 25 per cent. So there is no necessity whatever, so far as Ceylon is concerned, for reducing further that rate. If there is to be a further reduction to the extent of five per cent. as contemplated, the increase in imports is bound to be more. More and more copra and coconut oil will be dumped into this country from Ceylon to the ruin of our own producers. Now, the considerations which weighed with the Select Committee in rejecting my suggestions were two. In the first place, it was said that there had been a great demand from the oil industries for the reduction of the duty, and then, the interests of the consumers have to be considered and protected. I submit, that so far as the mills are concerned, they are run by capitalists, and they are not in need of any particular help. They can purchase the copra at the present market rate, put on the working expenses and still sell at a fair selling price. There is no difficulty; and, after all, this five per cent. is not very much, so far as the millowners are concerned. Now, with regard to the interests of consumers, you will excuse me, Sir, when I say that it was not evinced and was not a factor which weighed with this House when either the protection to the steel industry, or the protection to the textile industry and, recently, after I came here, the protection to the sugar industry or the protection to wheat cultivation was passed. If the interests of the consumers in this country were any criterion at all, these were all waived and conveniently ignored in the Bills granting the afore-said protection. From where did the sympathy develop all on a sudden? And so far as the consumers themselves are concerned, the price of coconut oil has been reduced by half during the last two or three years. This five per cent. will add only one anna to a gallon or two pice for a bottle of coconut oil. That is only nominal and the House, I submit, need not bother about that. Now, the paper, from which I read a little while ago, goes on saying that:

"So far as Ceylon is concerned, nothing would be more welcome to the coconut industry than the abolition of the Indian duty on copra. Such a step will not only bring more money into the pockets of the producers, but will also give a fillip to the demand for copra in India."

—as if we are anxious to have Ceylon copra. They say that the abolition or partial reduction of five per cent. will go a long way to help the Ceylon producers. Why should we go out of our way to help Ceylon producers, to the detriment of our own cultivators is a point which I cannot understand. On the other hand, a five per cent. increase in the price of coconuts will go a long way to alleviate the condition of the ryots of our own country. Such a thing is not without a precedent, as, every one is aware, this very Assembly has passed a duty on imports of wheat, in the interests of the agriculturists of the Punjab. Sir, am I to understand that simply because there are about 20 Members from the Punjab, all very influential and vociferous men who could bring their influence to bear on the Government, that that Bill was passed, and that we, coming from the West Coast, are few in number, my proposal is turned down? That cannot be. Sir, agriculturists are agriculturists everywhere and they stand in need of help everywhere. What is good for the Punjab agriculturist must also be good for the Malabar agriculturist. The reasons and the logic of the Committee

arriving at their conclusion are beyond my comprehension. My suggestion is not to add anything; I only want that the present rate should be continued. People are already considerably agitated over this matter judged from the several telegrams I have received. The Malabar Chamber of Commerce at Calicut asked me to oppose the Bill throughout. I shall read two messages I received yesterday. The telegram of the Jnanodaya Association at Tellicherry runs thus:

"Malabar coconut industry hard hit by Ceylon competition. Travancore Legislative Council adjournment motion allowed to discuss dumping Ceylon copra in Travancore. 20 per cent. duty inadequate. Jnanodaya Association of coconut agriculturists tappers pray raise duty 30 per cent. Prohibition propaganda killed tapping industry. Copra only other income."

Then, Sir, the telegram of the Travancore Chamber of Commerce at Alleppey says:

"Travancore Chamber of Commerce urgently press for retention of present import duty on copra and coconut oil at 25 per cent. for Empire products and for increase to 35 per cent. for non-Empire. Any lowering of import duty will be economically injurious to Indian producers of copra and oil. Chairman."

When people get to know the full import of this, there will be a great agitation all over the place.

Before I sit down, Sir, I will appeal to the Government with all the emphasis I can command to give due consideration to this matter. The Honourable the Commerce Member is himself a landholder. He was at one time the Dewan of Cochin, where there is a large population of coconut growers. I hope he can easily realise their troubles. I hope he realises what blessing, what boon he can confer on them by accepting this amendment. Sir, I am told that he is going shortly on a tour to South India, to Cochin and other places. If he goes there, he can make personal inquiries regarding this matter. Let him first satisfy himself that it will not be a hardship on the people concerned, and then he may do what he thinks fit. The rules permit it. Until and unless he is so satisfied, I would strongly appeal to him to keep the present rate by accepting my amendment.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Amendment moved:

"That in the Schedule to the Bill, in amendment No. 47, in the proposed Part VIII, item No. 176 be omitted and in the proposed Part IX, after item No. 224, the following new item be inserted:

‘SEEDS.				
225	Oilseeds, non-essential, all sorts not otherwise specified, including copra or coconut kernel.	<i>Ad valorem.</i>	35 per cent.	25 per cent."

**Mr. Uppi Sahab Bahadur** (West Coast and Nilgiris: Muhammadan): Mr. President, I rise to support this motion. Mr. Thampan has very plainly told the House the present condition of the agriculturists in my country, and the Honourable Sir Joseph Bore very well knows the part which the coconut industry plays in the economic life of Malabar. The whole wealth of Malabar depends upon coconut and coconut alone. Sir, it has been said that the Ceylon Government were trying to get the present tariff duty reduced. The price of coconut in Ceylon had fallen very

[Mr. Uppi Saheb Bahadur.]

low and they were trying to find a market in India. But, fortunately for us, the Government did not find their way to reduce the present tariff.

Sir, Malabar has been supplying all these years coconut to the whole of Southern India and also to the Punjab and Sind and, I think, also to Central India. Now, if the duty is reduced, as is proposed, the result will be a sudden fall in the price of coconut. Large quantity of coconut is now lying in Malabar. Only three or four years ago, the price of fresh coconut per thousand was Rs. 40 or Rs. 50 and now it has gone down to Rs. 20 or Rs. 30. The result is that the condition of the poor agriculturists has become miserable. In a recent issue of *The Hindu* I saw that an agitation had been set on foot in the Travancore State to prevent the dumping of copra and coconut from Ceylon. Mr. Thampan has already supplied the House with the figures showing the rise in the imports from Ceylon. Sir, I am very much afraid that this reduction of five per cent. will kill our coconut industry and it will hit the Malabar agriculturists very hard. The agricultural system of Malabar is peculiar to itself. There are small plots of land owned by various people, the products of which they sell in the markets. If the price of coconut falls, certainly these people will suffer heavily. Sir, this is not the protection of a key industry like the Tata Iron and Steel Works or the sugar industry, but it affects millions of poor people. If the protection given to the Tata's is removed, only certain shareholders and certain millowners may suffer and, perhaps, our Indian steel industry might also suffer. But, if the protection to the coconut and copra is removed at this juncture, it will hit the population of Malabar very badly. As it is, the present settlement that is going on there is hitting the poor tenants and the poor landowners very badly. So, at this juncture, if this protection were also to be removed, starvation and ruin will be the only result. So, I do not believe that our cry from far off Malabar will be a cry in the wilderness in this House. I hope and trust that our Northern India brethren and our Madras brethren will come to our rescue and save us from dire calamity which is staring us in the face. They will help us to keep this industry going and to save our agricultural population from starvation.

Some of our Indian gentlemen have asked whether our copra is sufficient. Sir, even now it is sufficient to supply the requirements of the whole of India. In fact, there are no buyers. I am not myself an industrialist; I am only an agriculturist and, therefore, I cannot supply with exact figures of the quantity of copra that is produced and the exact requirements of India. Anyhow, the industrialists always go in for cheaper goods. In Ceylon, the price of copra has gone down to a very low level and if that copra and coconut is allowed to come into India, the result will be that there will be a sudden fall in the price of the Indian coconut or perhaps there may not be any demand at all for Malabar coconut and copra for sometime. It is for these reasons that we are now asking for protection. We want merely to retain the protection we have been enjoying, namely, 25 per cent.; and it will be to the interests of Government also to raise the foreign duty to 35 per cent. In order to help a country which has come to a certain agreement with some other country, are we to give concessions? We have not come to any agreement with the Ceylonese Government. We have come to some agreement with Great Britain and, in order to help a country which has allied herself to Great Britain, are we to suffer? I do not know whether, the Ceylon Government, will agree, unless we approached her through Britain, to permit us to import our products

into Ceylon. That is a matter yet to be seen. I can understand our giving some concession to Great Britain, but not to people who have been allied to her by some attachment or relation. I do not know whether I am right; but I understand that we have not come to any agreement with dependencies of Britain such as Ceylon; and, now, because we are giving Great Britain some concession, we will have to give concession to Ceylon in an indirect way. I am willing to be corrected if Mr. Chetty will enlighten me on that point. So, what I say is, protect our industry; at the same time, you can keep the word of your Agreement: raise the other duty by ten per cent. Sir, I support the motion.

**Mr. C. S. Ranga Iyer** (Rohilkund and Kumaon Divisions: Non-Muhammadan Rural): Sir, my friend, Mr. Thampan, who represents Malabar in this House with great ability has naturally taken up the question affecting the district to which I have the honour to belong. Even from a purely political point of view on the eve of a general election, if a political cobra were to be let loose against Mr. Thampan, he can win the election on the copra. (Laughter.) But it is not as an election stunt, but as a purely agricultural problem that he has been discussing the copra question before us. A flood of copra pours into Malabar from a British colony and even though our industrialist friends in the neighbourhood of Malabar, like Mr. Chetty—in a fast motor I can reach his house from mine in an hour—even though they are so close to us, they hate their neighbours, they do not even love the copras. (Laughter.) The industrialists say that copra is the raw material for the making of coconut oil; therefore, the tariff wall against copra should be lowered in regard to a British colony. But the contention is that Malabar produces an adequate amount of copra for the coconut oil that is made in this country. I recognise that the tariff wall is heightened against coconut oil from Ceylon and a large quantity comes from Ceylon; and, in this matter, I admit that the Honourable the Commerce Member and other members of the Committee were quite conciliatory; they did not want the Ceylon oil to compete unfairly with the Malabar or South Indian oil. At any rate to some extent they gave relief, but we were not satisfied. I miss my friend, Dr. DeSouza, who warmly supported us and took up a very strong attitude in the matter. We are grateful to the Select Committee for having mentioned our difference in this particular matter in the body of the Report. I have nothing more to add than this: that Mr. Thampan has made an exhaustive case on the subject, and Mr. Chetty, with all his eloquence, cannot meet Mr. Thampan's case if he were to proceed purely on facts—and not fiction—that some Coimbatorean economists delight to indulge in. (Laughter.)

**The Honourable Sir Joseph Shore:** Sir, in the privacy of this Chamber I confess to a sneaking sympathy with my friend, Mr. Thampan. I have lived for many years on the West Coast and I know the importance of the coconut tree and all its products in the economy of West Coast life. But though Mr. Thampan is my friend, truth is my divinity. Mr. Thampan has, I think, placed the case quite fairly. I think he will agree that the Select Committee considered this matter with some care. Through his able advocacy, I may say, the Select Committee were converted to the view that in the case of coconut oil, the preference should be given by raising the duty entirely upward. So far as copra was concerned, I think he will admit that the reason which influenced the Select Committee not to recede from the figures originally entered in the Schedule, namely, 20 and 30,—the reasons which led them to that view were fairly considered. As Mr. Ranga Iyer has pointed out, the reasons were that it is the raw

[Sir Joseph Bhore.]

material of an industry—not merely the oil-expressing industry, but incidentally to some extent at any rate of the soap industry and of the industry which is now manufacturing what is known as vegetable products in this country. On one point I ought to join issue with my friend, Mr. Ranga Iyer, and that is this: he suggested that we produce all the copra that is necessary for the use of the industries I have referred to in this country. That, I do not think, is the case. At any rate we have received the very strongest representation to the effect that the copra produced on the West Coast and in India is not sufficient to meet the demands of these industries. The real point, as it appears to me, is this: until 1931, the ordinary revenue rate of duty was 15 per cent. on copra. Until then, as far as I know, we had received no complaints in regard to the competition of Ceylon copra. Even now we are not proposing to go below 20 per cent.; and, to my mind, it appears that a protection of 20 per cent. is considerable when you remember that it is a raw product with which we are dealing. Unless my friend, Mr. Thumpan, can show why it is that the raw product in this country, namely, copra, with a protection of 20 per cent., cannot compete with the imported article from Ceylon when all the natural conditions, as far as we know, are similar, unless he gives satisfactory reasons to show why that is the case, I fear we must adhere to the decision of the Select Committee. With much regret, therefore, I am afraid, I must oppose his amendment.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question which I have to put is:

“That in the Schedule to the Bill, in amendment No. 47, in the proposed Part VIII, item No. 176 be omitted, and in the proposed Part IX, after item No. 224, the following new item be inserted:

‘SEEDS.			
225	Oilseeds, non-essential, all sorts not otherwise specified, including copra or coconut kernel.	<i>Ad valorem.</i>	35 per cent. 25 per cent.’”

The motion was negatived.

**Mr. B. V. Jadhav:** Sir, I move:

“That in the Schedule to the Bill, in amendment No. 47, in the proposed Part VIII, against item No. 181, for the figures and words ‘30 per cent.’ and ‘20 per cent.’ in columns three and four, the figures and words ‘25 per cent.’ and ‘15 per cent.’, respectively, be substituted.”

It is well-known that since western medical science was introduced into India, western medicines have also invaded this country, and year after year, as a result of the products of the various Medical Colleges in all parts of India, large numbers of graduates are coming out and are beginning to practise in various cities and towns. Almost all of them receive their medical education in the allopathic system, and the medicines they generally use are imported from western countries, especially from Germany and England. This has gone on for a number of years, but during the last Great War it was found that the drug making industry ought to be established in India and that India ought to be independent

of supplies of medicines from foreign countries. Every one remembers what high prices had to be paid for such necessary remedies as santonine and quinine. They were almost unprocurable and, therefore, many inferior substitutes were used to the great detriment of the health of the children of this country. So, it will be evident that in the case of medicines and drugs India ought to be independent and produce the necessary medicines she requires.

In various parts of the country, factories are rising up and medicines and drugs are being manufactured. In Bengal, there are a number of factories and their products are sold all over the country with great success. Bombay does not lag much behind in this matter, although, it must be admitted, she does not lead. They have generally to compete with the imports from Germany and England. This invasion of medicines is not confined to the allopathic remedies alone, but, even in the Ayurvedic field, Germany has begun to invade. I may point out that the most costly and important medicine known as *Makaradhwaja* is now manufactured in Germany by the famous firm of Mercks and imported into this country, and while the *Makaradhwaja* made in India is sold at so high a price as Rs. 60 and Rs. 70 a tola, Mercks *Makaradhwaja* is available at retail shops at Rs. 4 per tola. In this way, foreign medicine is competing not only, as I observed, in the allopathic medicines, but also in the indigenous remedies of the Ayurvedic and Unani systems. The Homeopathic remedies are also being imported from Germany and America in very large quantities and they are competing with the products of the factories started here. . . .

**Mr. R. K. Shanmukham Chetty:** Your amendment wants to reduce duties still further.

**Mr. B. V. Jadhav:** So, Sir, I think Government ought to do something to give protection to these indigenous industries and they should try to at least keep up the duty that is at present levied.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Amendment moved:

"That in the Schedule to the Bill, in amendment No. 47, in the proposed Part VIII, against item No. 181, for the figures and words '30 per cent.' and '20 per cent.', in columns three and four, the figures and words '25 per cent.' and '15 per cent.', respectively, be substituted."

**Mr. R. K. Shanmukham Chetty:** Sir, for the admirable reasons mentioned by my friend, Mr. Jadhav, I oppose this amendment.

**Mr. B. V. Jadhav:** I wish to withdraw my amendment, Sir. The amendment was, by leave of the Assembly, withdrawn.

**Mr. B. V. Jadhav:** Sir, I move:

"That in the Schedule to the Bill, in amendment No. 47, in the proposed Part VIII, against item No. 183, for the figures and words '30 per cent.' and '20 per cent.', the figures and words '35 per cent.' and '25 per cent.', respectively, be substituted."

India was noted in olden times for its fine steel and cutlery, but now things have changed, and we have been depending upon foreign countries even for the necessary articles. But, latterly, factories have been started in various parts of India, especially in Northern India, and knives and forks,



[Mr. B. V. Jadhav.]

and so on, in Hathras and other places are made in large quantities. The cutlery of Dayalbagh near Agra is well known and they produce very fine articles. At the same time, I may point out, that they cannot

5 P.M. compete with the very big manufacturing houses of the West, especially Germany and England. Therefore, the protection that was given by the tariff in India ought to be continued for some more time in order to provide sufficient respite to this Indian industry to be able to compete with the foreign competitors. The question of the nascent industries is a very important one. India has been an agricultural country so far, but we have seen that the prices of foodstuffs and other agricultural produce have abnormally gone down and, therefore, there has been a good deal of unemployment and a good deal of starvation in the country. If the financial and monetary condition of India is to be improved, the Indian industries must grow and give employment to a larger number of persons than they have been doing hitherto. For this purpose, small factories for producing useful articles ought to be erected in all parts of India and they ought to be encouraged by suitable tariffs. This cutlery industry is one of these. The industry can be started here and, with sufficient encouragement and care, it can hold its own in a number of years. Therefore, the protection that was given by the former tariff ought to be continued even against England. By this amendment I propose that the tariff now in existence ought to be retained against England and that a higher tariff by ten per cent. ought to be levied on articles from other countries. Sir, I move my amendment.

**The Honourable Sir Joseph Bhoré:** Sir, this is also one of those cases which were very carefully considered by the Select Committee and their reasons for retaining the preferential and the standard rates at 20 and 30 per cent. were mainly three. First of all, it should be noted that no application has ever been received by the Government of India from this industry for protection. Secondly, no representation was received either by the Government of India or by the Select Committee or by the Committee appointed by this House, in regard to this particular industry. Thirdly, the cutlery industry in India is mostly confined to articles which are not competitive with the imported article. I ought also to add another reason and that is this. The United Kingdom share of imports of cutlery into this country amounts to only 25 per cent., so that raising the duty to 25 and 35 per cent. would impose an unnecessary burden on the consumer. It is for these reasons that the Select Committee came to the conclusion that the rates originally entered should be maintained, and, I am afraid, I must oppose my Honourable friend's amendment.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question which I have now to put is:

"That in the Schedule to the Bill, in amendment No. 47, in the proposed Part VIII, against item No. 183, for the figures and words '30 per cent.' and '20 per cent.', the figures and words '35 per cent.' and '25 per cent.', respectively, be substituted."

The motion was negatived.

The Assembly then adjourned till Eleven of the Clock on Thursday, the 15th December, 1932.

## APPENDIX.\*

**Mr. N. R. Gunjal** (Bombay Central Division: Non-Muhammadan Rural): Sir, I emphatically oppose the third reading of the Bill. This Bill and all its clauses will be a tool in the hands of subordinate Government officials, who will be entrusted with the administration of the law, to practise oppression on innocent and respectable people. This Bill has, moreover, crippled the powers of the High Courts. The general consensus of opinion expressed through the Press or otherwise has definitely been against the Bill; and my province, the Maharashtra, is no exception. Such oppressive laws are sure to crush the popular leaders fighting for the national cause, and religious institutions like the Masur Brahmacharyashram and those of other kinds. In spite of the fact that the Third Round Table Conference is in session in England, and taking advantage of the opportunity that they can at present command a majority in the Assembly, the Central Bureaucracy have brought forward this Bill. Sir, "divide and rule" is the British policy.

Sir, as remarked by the late Lokmanya Tilak, such unjust laws may have some control over the body, but they can have none over the mind. The great poet of India, Rabindranath Tagore, has altogether been outside the field of politics, but he is also gradually becoming alive to the reactionary character of this law. He has the following opinion of such laws:

"It is no difficult job to heap mountains of oppression and tyranny on people who have been cowed down by defeat and are in a helpless condition."

But, Sir, tyranny is sure to lead its authors to a moral degradation; and I, on behalf of my countrymen, warn Government—beware of this moral degradation. Government are damaging the very foundations on which they stand by extermination of the independent institutions in the country. Government, no doubt, Sir, have got unlimited powers; it is no wonder that they should feel satisfaction over it. What I have to say is this, that moral force also is as valuable as the physical force. My countrymen are, no doubt, powerless to oppose oppression, but nobody can take away the power of the people to withdraw the moral support on which every Government must stand and which fact will be recorded in the history of the land.

I should also like to mention the views of Lord Asquith on the point; he says:

"Whenever there arise discontent and huge agitation amongst the public in a country, that is an indication of the existence of a *bona fide* difference of opinion between the public and the Government; and only good-will and not repression is the remedy on such occasions. Therefore, repression should not be resorted to; democracy should be established."

Political Pandits, like the late Lokmanya Tilak, have defined Government in some such way: Big men tell us that Government is an abstract noun in the neuter gender and, like God, its actions are guided without

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\*Vide page 2846 of Legislative Assembly Debates, dated the 3rd December, 1932.

motives; but just as God has the shackles of *Maya*, so is Government restrained by persons who have control over its affairs; these persons, like other human beings, are subject to human passions; and it is the experience that these people dim their own and Government's vision and lead it astray.

It would not be out of place to note the views of the late Honourable Mr. Gokhale on this point: He says that the Government for the time being profess that their ways are moral and their trusteeship of India is based on moral grounds and that they govern the country for the good of the people; but whenever the bureaucracy, entrusted with the administration of the country, is prone to pass repressive laws, counter to the national aspirations, the people will not be much in the wrong if they call such bureaucracy as unjust and tyrannical.

Several rulers, like *Ravana*, ruled in Hindustan and especially in the City of Delhi, and whenever ill counsels of the Ministers prevailed, oppression went to the length of imprisoning all the thirty-three crores of gods. The inevitable consequence was that even the powerful kingdom of *Ravana* became extinct. These historical events should not be overlooked.

Sir, the Honourable Mr. Haig gave us to understand that this law was to remain in force for a period of three years only and that thereafter the democratic form of Government was to be established in the country and there was, therefore, no reason to be afraid of. The argument seems to me very peculiar. That the British bureaucracy should dream so is, no doubt, a happy augury.

Three years more and the Britishers will lose their sway over thirty-three crores of Indians. The prospect is, no doubt, disconcerting to them. But there seems in this a sign of Divine intercession, and a popular representative like myself should not at all be sorry over it. A number of amendments to this Bill were moved, clause by clause, and the Honourable Mr. Haig has personally heard all the discussion on them. He is counting on the difference of opinion among the Non-Officials and is, therefore, convinced of a safe passage for the Bill. It is apparent that the popular party in the House is in the minority at the present moment and that the Bill will surely be passed. But the Honourable Mr. Haig should take note of the fact that the opinion in the country is behind that party, although they may for several reasons be in the minority at this time. An ancient instance in point, Sir, belongs to the times of the Lord Shri Krishna. The *Kauravas* then formed the majority party, and the *Pandavas* the minority party. But the majority opinion in the country favoured the *Pandavas* and ultimately they became victorious and the throne of Delhi came to their possession.

Superior bureaucrats of the type of the Honourable Mr. Haig are fed at the cost of India; their salaries are not drawn from the Western countries. The Honourable Mr. Haig should bear in mind that we are the masters of India; Hindustan is the motherland of Indians; and although repressive laws like the Ordinance Bill are passed, we cannot be compelled to leave this land; it is the British bureaucracy who have got to leave it bag and baggage. I should advise him not to pass this repressive measure;

otherwise, he will be responsible for the sin of weakening the power of the British bureaucracy in India.

I would, at the same time, urge on the popular representatives in the House strongly to oppose this oppressive law. They should put into execution the promises made by them to the people at the time of their election. Sir, I should like them to consider that if they do not do that, there are few chances for their re-election. It is not at all becoming on the part of a representative of the people to make promises of safeguarding the interests of the people at the time of the election and, when once elected to the Assembly, to help the Government at such critical junctures. I warn them against such a sin. This Bill will create a situation whereunder the master gets roasted gram, while the servant gets *laddoos*. With these words, I strongly oppose the Bill.



## LEGISLATIVE ASSEMBLY.

*Thursday, 15th December, 1932.*

The Assembly met in the Assembly Chamber of the Council House at Eleven of the Clock, Mr. President (The Honourable Sir Ibrahim Rahimtoola) in the Chair.

### MESSAGE FROM THE COUNCIL OF STATE.

**Secretary of the Assembly:** The following Message has been received from the Council of State. It runs as follows:

"I am directed to inform you that the Council of State has, at its meeting held on the 14th December, 1932, agreed, without any amendment, to the Bill to supplement the Criminal Law which was passed by the Legislative Assembly at its meeting held on the 7th December, 1932."

### THE INDIAN TARIFF (OTTAWA TRADE AGREEMENT) AMENDMENT BILL.

**Mr. T. N. Ramakrishna Reddi** (Madras ceded Districts and Chittoor: Non-Muhammadan Rural): Sir, I move:

"That in the Schedule to the Bill, in amendment No. 47, in the proposed Part IX, against item No. 222, for the words 'Two annas and six pies' and 'six pies', the words 'Two annas and one pie' and 'one pie' respectively, be substituted."

The amendment refers to mineral oils standing as Item No. 222. The original rate of duty was two annas one pie per imperial gallon. This mineral oil does not refer to the batching oil used for jute manufacture nor to fuel oil, but is confined only to lubricating oil used for lubrication purposes and the original duty was two annas one pie per imperial gallon. Sir, the Government originally proposed three annas as the standard rate of duty and one anna as the preferential rate of duty to the United Kingdom, thus keeping up the margin of two annas, and now, in the Select Committee, they have seen the wisdom of reducing the duty, because this mineral oil is used for oil engines and other engines which are used for industrial purposes and they have reduced the standard rate of duty to two annas six pies, and the preferential rate to six pies to United Kingdom. My amendment is to reduce the standard rate to two annas one pie as it originally was and the preferential rate to one pie. The reason is this. We are getting most of the lubrication oil from the United States and very little from England. Out of nearly ten million gallons, we get as much as nine millions from the United States of America and about a little over one million from the United Kingdom. My proposal will not reduce the revenue considerably, to the Government. I have calculated that if the present importation into this country continues, as it has continued for the last three years, our customs revenues will not diminish appreciably. It will diminish by a lakh of rupees, because,

out of ten millions we get nearly nine millions from the United States of America for which the rate of duty under my amendment, is the same as it exists at present. On the other hand, if the rates of duty, as levied by the Select Committee, are to be approved, then we will get about 17½ lakhs of rupees by way of duties. That means an additional burden of nearly four lakhs of rupees on the consumers. On the other hand, the policy of the Government should be that we have to get this oil at a very cheap rate, because it is used for industrial purposes and we should not increase duties beyond what they are at present. Further, this preferential duty will give advantage to the oils imported from the United Kingdom, because the duty is reduced to one pie—practically nil. Since the purpose of the Government should be to develop the industrial concerns in this country, and since this lubricating oil is used only for industrial purposes, the Government ought to accept this amendment. With these words, I move my amendment.

**The Honourable Sir Joseph Bhore** (Member for Commerce and Railways): I am afraid I must oppose this amendment entirely on financial grounds. The question was carefully considered in the Select Committee and, in deference to the wishes expressed by the members of the Select Committee, we agreed to reduce our duties which were originally placed at three annas and one anna, respectively, to two annas six pies and six pies, respectively. In making his calculation, my Honourable friend has, I think, overlooked one material point, namely, that with so large a preference as two annas, it is almost certain that there will be a large substitution of British imports for foreign imports, the result being a consequent heavy loss of revenue. On grounds of revenue, I must oppose this.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in the Schedule to the Bill, in amendment No. 47, in the proposed Part IX, against item No. 222, for the words 'Two annas and six pies' and 'six pies', the words 'Two annas and one pie' and 'one pie', respectively, be substituted."

The motion was negatived.

**Mr. B. V. Jadhav** (Bombay Central Division: Non-Muhammadan Rural): Sir, I move:

"That in the Schedule to the Bill, in amendment No. 47, in the proposed Part IX, against item No. 225, for the figures and words '30 per cent.' and '20 per cent.', the figures and words '35 per cent.' and '25 per cent.', respectively, be substituted."

Item No. 225 is Boots and Shoes composed mainly of leather. India has now commenced to make boots and shoes of leather and there are very large factories in Cawnpore and other places. The industry is also threatened by outsiders, especially Bata and others, and English boots also compete with Indian-made boots. Therefore, the protection for Indian boots must be substantial, and, for that purpose, I move this amendment.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Amendment moved:

"That in the Schedule to the Bill, in amendment No. 47, in the proposed Part IX, against item No. 225, for the figures and words '30 per cent.' and '20 per cent.', the figures and words '35 per cent.' and '25 per cent.', respectively, be substituted."

**Mr. S. G. Jog** (Berar Representative): Sir, everybody knows that in India this industry is on a growing scale, but, at the same time, the preferences that are being given will probably serve as a great handicap to such growing industries. I, therefore, support the amendment moved by my friend, Mr. Jadhav.

**The Honourable Sir Joseph Bhore** (Member for Commerce and Railways): Sir, I am afraid, my Honourable friend, Mr. Jadhav, begged the whole question when he said that the imports into this country were in competition with the local product. That, I think, is certainly not the case, so far as the information that is available goes and so far as our calculations enable us to come to a conclusion. The imported article is of very much higher value and it is practically non-competitive with the local product in this country. This question was gone into at considerable length in the Select Committee, and, it was on that ground, namely, that the articles were not competitive with the local product that the Select Committee came to the conclusion that, in the interests of the general consumer, the figures should be maintained at 30 and 20 per cent. Sir, I oppose the motion,

**Mr. B. V. Jadhav**: Sir, I beg for leave to withdraw my amendment. The amendment was, by leave of the Assembly, withdrawn.

**Mr. T. N. Ramakrishna Reddi**: Sir, I beg to move:

"That in the Schedule to the Bill, in amendment No. 47, in the proposed Part IX, against item No. 229, for the figures and words '37½ per cent.' and '30 per cent.', the figures and words '32½ per cent.' and '25 per cent.', respectively, be substituted."

Sir, this amendment refers to the duties on motor cars. With regard to motor omnibuses, which is next to that item,—item No. 230,—the Select Committee have kept the standard rate as it existed previously and given the preference by a reduction in the duty as it existed. This amendment refers to motor cars. The object, with which the Select Committee retained the 25 per cent. duty as it existed, as the standard duty, and gave preference by lowering the duty, was for giving facilities for the road transport. Motor lorries and motor buses are playing a very large and growing part in road transport, and that is why they have done this. But, with regard to motor cars, the duty itself existed at a very high percentage namely, 37½ per cent., and even as it is, it will be admitted that it is a very high percentage; and, on account of the economic depression prevailing in the country, there are fewer numbers of cars being imported; and at least in order to give facilities for more imports of motor cars, the duty must be reduced. But I base my amendment entirely on another ground,—in fact on the same ground on which they have kept the percentage of duty at 25 for motor buses. Now-a-days even motor cars are being largely used for transport purposes. That is because the licensing fees for motor buses imposed by the Local Boards have been raised to a very high rate, and hence many taxi-drivers are taking to motor cars, because the licensing duties for motor cars are lower. So we find, Sir, that in towns and villages motor cars are being used to a large extent for road transport purposes, and it is the poor people also that use these motor cars as buses. Hence I propose to lower the duty to 32½ per cent., and to keep the preference at the standard rate as it exists for motor omnibuses. Since there are few motor cars that are being imported, the revenue also does not suffer by Government accepting this amendment. Sir, I move.



**Mr. G. Morgan** (Bengal European): Sir, I have every sympathy with the amendment moved by my Honourable friend, Mr. Reddi. I know that the duty has been reduced in the case of the United Kingdom. For a long time I have been trying to get Government to look at this question of import of motor cars from the point of view of utility. I know the revenue position, and the question put to me always was,—“Can you prove that it is the purchasing power which is responsible for the smaller import, or can you prove that it is the duty which is preventing the import of motor cars?” Well, Sir, nobody can answer that particular question. But I asked Government in a question put on the floor of the House as to whether it would not be possible to test it by reducing the duty and definitely find out as to whether it was due to the purchasing power of the people, which was at a low ebb as we all knew, or whether a stimulus might be given by a reduction of the duty. There is no doubt that there is a very strong case for the early reduction of the rate of duty on motor cars at the next Budget time. We all know that motor cars have been run now to the utmost point of utility. In the United States, at the present moment, the production of motor cars is being extended. They are running down very rapidly indeed, and, in the United States of America, the motor car makers have come to the conclusion, which is apparent and no doubt quite apparent to my Honourable friend, the Finance Member, that replacements will have to take place within the next year or 18 months. A car has only a limited life. At the present moment, old cars are using more petrol, and my Honourable friend, the Finance Member, is no doubt getting some extra duty from the use of old cars. But the point is that with this replacement coming along, whether it would not be advisable to reduce the duty still further on the lines suggested in the amendment of my Honourable friend, Mr. Reddi. I do not press for the acceptance of this amendment at the present moment. My object in speaking on this amendment is that, although the duty has been reduced on the United Kingdom all other countries will have to pay 37½ per cent. There is nothing allowed for the British colonies and a very large production comes from Canada. There are lots of works in Canada which are producing cars and they will all have to pay the duty of 37½ per cent. If the Government could see their way to accept this amendment, I should be very pleased indeed; but if they show that it is quite impossible from the revenue point of view that they should accept it, then I personally would not press the point. At the same time, revenue in many cases can be carried too far. My friend has put the case clearly before the House. No doubt there are many Members in this House who know that Mr. Gandhi has always said that we begin at the wrong end. He said we wanted so much money for expenditure and then we turned round to find out where we could get it. As a tax-payer, I am thoroughly in sympathy with that view, and if that was the main plank of the Congress, perhaps I would join it myself being a tax-payer. I do not think I should care to wear the Gandhi cap, but I would be in full sympathy with any suggestion to alleviate the present position of taxation. I put it to the Honourable the Finance Member and to the Honourable the Commerce Member that, if they can possibly see their way that such a reduction in revenue would not make them afraid of the financial stability of the Government of India, I would recommend that they should accept this amendment.

**The Honourable Sir Joseph Bhore:** I am sure the House will realise that this is not an occasion for a general lowering of duties. We are merely concerned here with fitting in preferential rates of duties into our existing

tariff system with the least possible dislocation of our financial arrangements and of commerce and industry. I think the House will realise that we have gone a great way in revising our original proposals and in accepting the view of the majority of the Select Committee that the preference should be given entirely by lowering the existing rate. I do not think, Sir, that the House could reasonably expect us to do more than we have already done. I will deal with the other points raised by Mr. Reddi when we come to the next amendment.

Sir, I oppose this amendment.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is :

"That in the Schedule to the Bill, in amendment No. 47, in the proposed Part IX, against item No. 229, for the figures and words '37½ per cent.' and '30 per cent.', the figures and word '32½ per cent.' and '25 per cent.', respectively, be substituted."

The motion was negatived.

**Mr. T. N. Ramakrishna Reddi**: Sir, I persist in moving my amendments. I move:

"That in the Schedule to the Bill, in amendment No. 47, in the proposed Part IX, against item No. 240, for the figures and words '25 per cent' and '15 per cent', the figures and words '15 per cent.' and '5 per cent.', respectively, be substituted."

This refers to cinematograph films, not exposed. Of course, Sir, I admit that even this item also was considered by the Select Committee thoroughly and they have retained the standard rate of duty as it existed previously, though they had proposed originally a higher rate, and have fixed the preferential rate by lowering the existing duties. My submission is that it does not go far enough. In answer to some of the previous amendments, the Honourable the Commerce Member has said that with regard to the raw materials which are used for industrial purposes, the duty must be kept as low as possible. That was his answer. Now, Sir, here is a case in which he has to put his precept into practice. Here is a raw material which is used for the cinematograph films and which ought to have rightly been placed in the duty-free list. Cinema films are not only utilised for entertainment purposes, but they have been extensively used for educative and health propaganda purposes as well. Besides, the cinematograph industry has now become a growing industry in India. I am told that in America this is the second largest industry and there is no reason why in India also it should not grow at least as one of the most important industries. Sir, the reason why I want a reduction of duty with regard to this item is that hitherto only silent films were in vogue in the country, and it did not cost much to produce a silent film. But now we are having talkies everywhere and I am told that its production costs nearly five to six times the cost of producing a silent film. Hence, I suggest that the raw material for that film should be made as cheap as possible. This industry is providing labour for so many Indians and, therefore, the duty should not be kept as high as it is now. The cinematograph industry in India is struggling for its very existence and it is certainly in the interests of the growing industry that the duty should be lowered. The Honourable the Commerce Member said that we are now dealing only with the matter of adjustment of the preferential tariffs and not with the lowering of the tariffs as it had existed up to this time. But, I gather from the report

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of the Delegation that we are free even now to lower the existing duties, but that we should keep the margin of preference intact and it is, on that account, that I venture to move for the reduction of this duty.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Amendment moved:

"That in the Schedule to the Bill, in amendment No. 47, in the proposed Part IX, against item No. 240, for the figures and words '25 per cent.' and '15 per cent.', the figures and words '15 per cent.' and '5 per cent.', respectively, be substituted."

**Mr. Lalchand Navalrai** (Sind: Non-Muhammadan Rural): Sir, I support this amendment and, in this connection, I would like to draw the attention of the House to the report of the Indian Fiscal Commission of 1921-22. They have said:

"Raw materials required for Indian industry should ordinarily be admitted free of duty. This is an obvious principle of general acceptance in protectionist countries . . . We have recommended, for instance, that there should be as a rule no duties on raw materials. Similar considerations apply to the case of semi-manufactured articles which do not get straight into consumption, but are used in the process of manufacture of any industry in India. Any taxation imposed on such articles reacts on the industries which use them, and, consequently, will either injure those industries or will necessitate the imposition of some compensatory duty."

This applies very much to this new cinema industry that has come into India and that should be protected. I would also read a portion of the report of the Indian Cinematograph Committee where they say:

"There is, however, one tariff concession which we consider the producing industry can legitimately claim. Raw or virgin film is the raw material of the industry. It has been made clear to us that the production of finished films, especially of good films, inevitably involves a very considerable wastage of raw films. Raw film is not made in India, nor is it likely to be so made, for years. That the raw material of an industry should be free of duty is almost axiomatic.....We feel that the Government should be prepared to sacrifice this relatively small part of revenue. For the sake of administrative convenience and also for the reason that the import of non-standard cinematograph films cannot be considerable, we recommend that all classes of raw cinematograph films should be put on the free list of this tariff."

Sir, for these reasons I support the amendment.

**Mr. B. V. Jadhav**: Sir, I rise to support the amendment moved by my Honourable friend, Mr. Ramakrishna Reddi. The film industry has been engaging the attention of the Legislature for a number of years. It was in 1925 that the late Honourable Sir Haroon Jaffer moved a Resolution in the Council of State that in place of the various existing Provincial Boards a single salaried Board be appointed for the whole of India to regulate the import into India of cinema films and to exercise a stricter control over cinemas in general. This Resolution was opposed by the Government and was negatived. Then, in 1925, a question was asked by Khan Bahadur Sarfaraz Hussain Khan in this Assembly, and, in March, 1927, the Honourable Mr. Ramadas Pantulu moved in the Council of State a Resolution recommending to the Governor General in Council to improve the system of censorship and control over cinemas and other public resorts of amusement and to adopt adequate measures to prohibit the exhibition therein of films and other shows which were calculated to corrupt the morals of the people. The then Home Secretary, the Honourable Mr. H. G. Haig, accepted the Resolution and agreed, on behalf of Government, that it was

desirable to improve the system of censorship, but he was not prepared to condemn the work of the Censor Boards which, on the whole, making due allowance for the difficulties, had been carried out very successfully. Elsewhere in his speech, referring to the attempts being made to produce more British films, he expressed the hope that, if more British films were forthcoming there might be some improvement, and went on to say that it seemed to him that a still greater improvement would lie in a considerable extension of the production of Indian films,—showing Indian stories in an Indian setting.

The Resolution was adopted by the House. In 1926, the Imperial Conference passed the following Resolution:

"The Imperial Conference, recognising that it is of the greatest importance that a larger and increasing proportion of the films exhibited throughout the Empire should be of Empire production, commends the matter and the remedial measures proposed to the consideration of the Governments of the various parts of the Empire with a view to such early and effective action to deal with the serious situation now existing as they may severally find possible."

The "remedial measures proposed" were those suggested by the Economic Sub-Committee and were as follows:

- (1) Effective customs duties on foreign films, whether accompanied by a change in the basis on which duties are payable or otherwise;
- (2) Ample preference or free entry for films produced within the Empire;
- (3) Legislation for the prevention of "blind" and "block" booking;
- (4) The imposition of requirements as to the renting or exhibition of a minimum quota of Empire films.

It, therefore, became incumbent on India in common with other parts of the Empire to consider whether or not she should take any steps to give encouragement to British Empire films.

On the 14th September, 1927, the Home Member, the Honourable Mr. J. Crerar, moved the following Resolution in the Legislative Assembly:

"That this Assembly recommends to the Governor-General in Council that he be pleased to appoint a Committee to examine and report on the system of censorship of cinematograph films in India and to consider whether it is desirable that any steps should be taken to encourage the exhibition of films produced within the British Empire generally and the production and exhibition of Indian films in particular."

A Resolution in identical terms was moved in the Council of State by the Home Secretary, the Honourable Mr. Haig. In both the Houses the Resolution was carried.

On the 6th October, 1927, the Government of India appointed a Committee, over which Diwan Bahadur T. Rangachariar, C.I.E., presided. He is at present a Member of this Honourable House and I regret his absence from his seat on the front Opposition Bench on this occasion, as it deprives us of the sound knowledge of this industry which he acquired before and during the investigations of the Committee.

The Committee submitted their report and it came up for consideration before this House. For reasons known to themselves Government thought it fit not to accept the recommendations of the Committee and opposed the Resolution in this House, and in the voting there being a tie, the motion was negatived by the casting vote of the Chair, following the Parliamentary practice.

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It was due to the propaganda made by the Federation of British Industries including the Film Industry of England, the whole Press of England, and by the publicists and writers and almost everybody of importance there, who clamoured for markets for British entertainment films—an industry which was just rising—that led to the Resolution of the Imperial Conference and, consequently, the appointment of the Committee by the Government of India, and, as recommendations of that Committee did not propose any preference to British films, this might have led to the rejection of the recommendations by Government. It is a matter for congratulation that for the preference to be given to the manufacture of British raw cinema films this question has again been brought before this House by Government.

I must state here how I began to take interest in this industry. As Minister to the Government of Bombay in charge of Industries, the film industry attracted my attention, and I was watching its progress. I was also watching the progress of the industry in Kolhapur, which is my home, and which has, from the very beginning, taken a leading part in its development; and I am very proud to say that both the silent pictures and the talkies produced there have been pronounced to be the best yet produced in India. I have had many opportunities of watching the shooting and this has convinced me of the importance of this Indian industry, both from the educational and entertainment and economic points of view. I shall refer to this point again.

The importance of the cinema is very well-known. I cannot do better than by quoting from the report of the Indian Cinematograph Committee, which, in its paragraph 4, says:

"In its aspect as an instrument of education, the cinema has been the subject of various national and international conferences, and has engaged the attention of the League of Nations. It can be used educationally, in the limited sense of the word, as a mode of supplemental instruction in schools and colleges, and for illustrating certain scientific and technical processes. It has, however, a special value as a medium of education in the wider sense; for the purpose of propagating ideas or information among the masses on such subjects as public health, hygiene, improved agricultural methods, civics and a variety of other matters. And in this connection it has a special interest for India with her vast illiterate population."

In Europe and America, the population being generally literate and educated, the need of the cinema was first felt as a means of entertainment. After the war, its use for spreading education began to be realised in Europe. Russia is a country which is full of illiterates depending upon agriculture which was carried on under the old crude methods, and down-trodden by the strong government of the Czars run under the old feudalism, and, therefore, poverty-stricken. The Soviet Government under Lenin saw the potentialities of the Radio and the Cinema in educating the masses, and, since then, other countries in Europe and America have also begun making use of it for education. But, in Russia, the films are mainly intended as educative and only the second place is given to the entertainment side; on the contrary, other more advanced countries look upon the entertainment side as of the first importance. In this connection, I may be permitted to quote what Mussolini, the Dictator of Italy, recently said to Emil Ludwig, the famous German publicist, who pointed out to the Duce that Italy did not make much use of the film for propaganda:

"There the Russians have set a good example. We will also spend more money for it. The film is today the most powerful weapon for propaganda and education."

Mussolini has also persuaded the League of Nations to start the famous International Educational Cinematograph Institute at Rome. This institution has been engaged from the past four years in international educational film problems, such as establishing an international educational film library and compiling a register of educational films. The other countries of Europe and America have also recognised the importance of education through the cinema, and I may point out that the American Government have, at their own expense, produced films representing agricultural operations, hygiene, mining, metallurgy and other trades and offered them to educational institutions, private clubs and cinema shows, free of charge.

I shall now try to narrate before the House a short history of the film industry in foreign countries. Although the invention of the cinema is credited to Edison, who materialised the idea first about half a century ago, the real fathers of the modern cinema, acknowledged by the scientific world, are the Lumiere Brothers of France who invented the projector and made a public exhibition possible in 1896. Sweden, France and Italy first took up the industry, but, during the War, America developed the industry and attained the first position in it. In about three or four years after the War, Germany, France, Italy and Russia took up the industry and England came in the line in about 1925. To what extent the development of the cinema industry in America has reached will be shown from the following figures published in the Film Almanac of 1932 as collected by the Chamber of Commerce, Washington:

"The total number of theatres is about 20,000, out of which nearly  $\frac{2}{3}$  are wired for talkies. They are visited every week by 65 to 90 million people. The total capital invested in that industry is over two milliard dollars. The cinema industry supports a huge army of 276,000 persons, out of whom 27,000 are engaged in production, 9,000 in distribution and 240,000 in exhibition. Besides this, the industry spends over 70 million dollars in advertising, out of which nearly 55 million go to the newspapers and magazines, ten millions are spent in posters and five millions in miscellaneous advertising charges."

In this connection, I may state that the total number of cinema houses in the whole world is 61,551 according to the latest statistics collected by the Society of Motion Picture Engineers of America, out of which only about 650 are in India.

Now, a few words as to the history of the film industry in India. The pioneer of the Indian film industry was Mr. Phalke who started the production of entertainment films in 1913 first in Bombay, and then in Nasik. He was followed by a few other adventurous spirits amongst whom, I feel it my duty, to mention the name of Baburao Painter of Kolhapur who, about the year 1918, when he could not get a cine camera, manufactured one for the use of the Maharashtra Film Co., who made a name in the film industry of our country. The camera was actually seen by me in operation and contained many improvements over the model which was copied. The industry took deeper root in the City of Bombay, in Kolhapur, in Calcutta and Rangoon. Adventurous spirits in other places are also starting studios of their own and, I hope, by degrees, that their efforts will be successful and they will make a name in this connection.

In the meantime, in 1927, the first talkies were introduced in America, and India did not like to lag behind. The first talkie that was exhibited by the Imperial Film Co., of Bombay was in March, 1931. A great hit was made next year by the Prabhat Film Co. of Kolhapur whose film "The King of Ayodhya" was exhibited in Bombay continuously for four

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months and it was then acknowledged as the most popular film. But the record has now been broken by the Saraswati Cinetone of Poona whose production "Shyam Sunder" is being screened continuously for 18 weeks and is still running and is expected to run for a few weeks more. There are also other film companies who have achieved considerable success, and I should not fail to mention the name of the Ranjit Film Co., of Bombay. It is worthy of note that although there are no training institutions in this trade in the country and although some of the producers had not even the advantage of higher education, still their genius has triumphed over all the difficulties and they have succeeded in producing really creditable talkies which is a highly developed technique and in which, in western countries, only experts are employed. In this connection, I may quote from the Report of the Indian Cinematograph Committee the following:

"By these remarks it is not our intention to cast any sort of reflection on the Indian producers; on the contrary, we consider that much credit is due to them for having achieved without the advantage of any thorough training the measure of success which has been obtained, and for having advanced the Indian production so rapidly within the last few years."

I may mention here that Burma is also showing much energy in this venture and they are making good progress both in silent pictures as well as in talkies.

It will interest the Members of the Assembly to realise the economic importance of the film industry in India. The present few companies that are working provide employment to a very large number of people and it is estimated that not less than 13,000 persons are employed only in the production, distribution and exhibition branches of the industry. Besides this, work is provided to allied industries such as printing presses, newspaper business, electrical industry, etc. The total capital invested in all the three branches of the industry, according to a modest estimate, amounts to over two crores of rupees. The industry has another good point in its favour. It is quite free from any communal, religious or sectional bias. We have seen Muhammadan actors in the role of Krishna and Harishchandra, and Parsi actors in similar roles. The Anglo-Indian community also gets its share and, among the distributors and exhibitors, there are persons of every caste and creed.

Then, as regards the difficulties which the film producers have to contend against. The chief difficulty the Indian industry has to contend against is want of finance; and the market is very much restricted on account of the small number of theatres compared with other leading film countries of the world. In the case of talkies, there is another difficulty of the language and the field is still more limited on that account. The poverty of the people and the consequent low purchasing power is also a great obstacle to its development. But this is not all. Not only the cost of raw materials has increased by the heavy customs duty, but they have to pay also an exorbitant import duty of 50 per cent. on Radio valves and other electrical goods required for the recording and reproducing apparatus and lighting equipment.

The Archaeological department too is not very willing to grant permission for photographing historical places to be used as background, and the Railway Companies have not yet recognised the claim of film producing companies for concession rates when they go in the country for outdoor shooting.

Although the military authorities stated before the Rangachariar Committee that their help would be available at reasonable rate for filming war scenes, it is found on experience that this help is not readily available.

Now, I should like to bring to the notice of the House the financial gains to the Government. The industry is contributing a substantial amount to the income of the Government, both Central and Provincial, in various ways. The industry may be divided into three sections—the production, distribution and the exhibition. The producers have to import raw films, machinery, equipment and photographic goods, and customs duties are received from all these. Besides the customs revenue, the Central Government get income-tax on the profits of these concerns as well as from the highly paid actors and persons engaged in the production section. The distributors pay the customs duties on the exposed films imported and also pay income-tax. The exhibitors also pay income-tax to the Central Government and entertainment tax to the Local Governments, besides the customs duty on machinery required for exhibition of both silent as well as talkies. All three contribute a substantial amount to the local bodies in taxes and cesses.

With regard to imports, I may state here that raw films of the total length of 1,23,72,093 ft. valued at Rs. 5,89,355 were imported in 1927-28. In succeeding years, there has been a gradual increase and, in 1930-31, for which figures are available, the total footage had more than doubled and stood at 2,83,90,211 of the value of Rs. 11,07,665. Bombay Presidency alone takes about 75 per cent. of this. This will show the income from the import duties at 25 per cent. *ad valorem* which Government receive from the producers. I may here point out that the raw film is the raw material on which this industry works. It is a canon of fiscal policy that the raw materials of an industry should not be taxed. The report of the Indian Fiscal Commission 1921-22 under the distinguished chairmanship of yourself, Sir, lays down:

“Raw materials required for Indian industry should ordinarily be admitted free of duty. This is an obvious principle of general acceptance in protectionist countries (*para. 113*) . . . . We have recommended for instance that there should be as a rule no duties on raw materials. Similar considerations apply to the case of semi-manufactured articles which do not get straight into consumption, but are used in the process of manufacture of any industry in India. Any taxation imposed on such articles react on the industries which use them, and, consequently, will either injure those industries or will necessitate the imposition of some compensatory duty.”

The report of the Indian Cinematograph Committee appointed by the Government of India in paragraph 156 says—I need not read all that because it has already been referred to.

Another item of profit to Government is the customs duty on exposed films which, in the year 1930-31, amounted to Rs. 6,00,500.

Whilst the Government are making lakhs simply from the customs duty collected on raw films, machinery, equipment and photographic goods and a large amount from income-tax, of which figures are not available, it is very painful to observe that Government have not recognised the necessity of doing something for the fostering and encouragement of this industry whose potentiality in nation-building and in giving employment to hundreds of thousands are very well recognised. I am afraid that I may be confronted with about two lakhs spent on the Indian Cinematograph Committee, whose report has been shelved and not paid much attention to.



[Mr. B. V. Jadhav.]

Besides this, the Provincial Governments pocket the entertainment tax and make no return to the industry. In this connection, I may point out that from reports heard, the Government of Bombay in these days of stringent finance did not scruple to take away from the Bombay Board of Film Censors 2-3rds. of their accumulated savings amounting to about Rs. 60,000, to which they had no just claim in law, as the Board is not an official body. As a Sanskrit poet says:

*"Bubhuxshitah kim na karoti papam!"* which means,

"What sin will not a famished man commit!"

Although Government are very eager to appropriate funds in the shape of taxes and duties, they do not care even to collect the necessary statistics and do not realise the responsibility of supplying them to public men and those in the trade. A friend of mine approached the Government of Bombay for the annual figures of entertainment tax collected from the Cinema houses and theatres in the Presidency and the reply was:

"Figures are not readily available and Government cannot undertake to collect them."

It is worth mentioning that the tax is collected in only five districts and could have been ascertained by only five letters addressed to the various collectors. Similar requests to other Provincial Governments were also turned down. It is, however, to the credit of the Government of the new Frontier Province, who do not levy any entertainment tax, that they readily supplied the information about the number and location of the cinema houses.

I may point out that in America the Department of Commerce gets statistics not only for their own country, but also for foreign countries. When the Motion Picture Society of India wanted to know the number of cinema houses in India and failed in their attempt to get the necessary information from official sources, they had to refer to the statistics collected by the Department of Commerce, United States of America, and found the figures for the complete year 1931. I am afraid, such figures and statistics about this industry may not be available here at all, and in the voluminous report, "India in 1930-31", this paying and important industry has been dismissed with a paragraph of about eight lines.

There is no doubt that the industry deserves help and encouragement from Government. In this connection, it will not be out of place to see what other Governments have done and are doing in this direction.

In Germany, the Reich Government have invested a large amount in the share capital of well-known companies. The Prussian Government, I learn, have issued a decree that all educational institutions and schools should be provided with cinema projectors and this has given a great impetus to the production and distribution of educational films in particular and other films in general, and, under a rule, educational films are exempt from the payment of any entertainment tax. In order to encourage the home cine industry, the Reich Government imposed from the 6th of September last import duties on unexposed raw films of 600 R.M. per 100 Kgs., whilst the duty on exposed and developed positive

12 Noon.

films is 2,000 RM. per 100 Kgs. It is noteworthy that the import of the exposed and developed negative is allowed duty free. This high tariff on the exposed positive film and exemption of the negatives from that duty encourages the distributors to import foreign negatives and give work to the established German printing laboratories.

Italy also under a law gives substantial subsidies to the producers of good films and films which have typical national tendencies. Accordingly, it was reported in the press in April this year that amounts of 2,043,000 lire and 43,664 lire were given as premiums to two prominent companies in Italy. In this connection, I may mention that these two big amounts were taken from the funds of the entertainment tax collected from the prize of these two film companies selected and approved of by a special Committee and exhibited in the Italian theatres. Under the fostering care of Signor Mussolini, the industry has developed to such an extent that there are about 3,900 cinema theatres with a seating capacity of about 400,000. The entertainment tax collected by the State amounted to 58,000,000 lire in the year 1931. 772 films were passed by the Board of Film Censors out of which 403 were talkies, and the length of these films was 570,400 meters.

Germany, Italy, France and other countries as well as England encourage home industry by what is called the quota system. On the 25th October of this year, Mr. Runciman, President of the Board of Trade, when interpellated in the House of Commons, stated that raw cine films, to the value of £160,000, were imported in 1929, and the same article in 1931 was imported to the value of £202,000. Exposed positive which was imported in 1929 of the value of £195,000 fell down two years later to £139,000. The most remarkable fall occurred in the exposed negatives which in 1929 was imported to the value of £797,000, but in 1931 it fell down to £133,000. Thus it will be seen that England is importing less and less exposed positive and negative films, but is not unwilling to import raw films besides the huge quantity they manufacture themselves in the country. Under Government encouragement by the quota system the film industry in England is getting stronger and stronger, and India, if properly helped, will show equally good results.

I may here bring to the notice of this House the importance of bringing into operation many of the useful proposals made by the Rangachariar Committee, most of which have not been accepted by Government. I here offer my congratulations to Government for accepting a recommendation of that Committee that rebate of the customs duty will be granted in respect of films of definite educational value. I was really surprised to read in "India in 1930-31", on page 349, the following statement:

"Before accepting another recommendation made by the Committee that raw films should be exempted from duty, the Government of India have decided that it is advisable to wait until the industry has developed further."

I admit that I fail to appreciate the logic of the opposition. It is in the infant stage of an industry that some concession by Government is required. When the industry has sufficiently developed and is able to stand on its own legs, such encouragement may be not of much use. But here Government refuse to give any help in the infant stage, but say that it is advisable to wait until the industry has developed. "Verily to him that hath more shall be given and from him that hath not shall be taken away what little he hath."

[Mr. B. V. Jadhav.]

Under the present circumstances, on exposed films an import duty of 37½ per cent. is payable on the value calculated at 4½ annas per foot, but, out of this, ⅔ or 87½ per cent. are refunded if any foreign film is returned to the country of origin within two years. So it will be seen that out of about 20 pies tax per foot, Government only retain less than 2½ pies per foot, whilst duty on raw film comes to more than four pies per foot. It has to be borne in mind that in taking films, there is a good deal of wastage which sometimes comes up to about 50 per cent. Therefore, the duty really on the finished Indian film works to about eight pies per foot, i.e., more than three times the duty imposed on exposed foreign films.

I am very grateful to the Honourable the Commerce Member for not enhancing the import duty as originally intended to 30 per cent. from 25 per cent., but he has consented to keep the duty at 25 per cent. and take off the preference to English films of 10 per cent. out of the 25 per cent. present import duty. By this concession the *status quo* of the industry will be preserved. But, as I have just pointed out, the industry is suffering an injustice under the tariff laws and, instead of getting an advantage over the foreign manufactured films, the Indian film has actually to pay more than three times the duty levied from foreign entertainment films. This is a serious competition which the Indian film industry has to meet and I, therefore, urge that Government ought to accept and bring into operation the recommendation of the Cinematograph Committee that raw materials of this new industry should be admitted duty free. But, I realise the difficulty of Government that, as the raw films are included in the Ottawa Agreement, England is entitled to a preference of 10 per cent. In order to respect that Agreement, I have worded my amendment making provision for this 10 per cent. to which the import duty on raw films should be reduced.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): "Order, order. I hope the Honourable Member realises that the House is getting very impatient.

**Mr. B. V. Jadhav**: I realise it, but I think I have to teach the House to be patient and pay more attention to industrial subjects.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Please go on.

**Mr. B. V. Jadhav**: I admit that the loss in such a case will amount to about Rs. 165,000. I make myself bold to suggest to the Finance Member a method of recouping this loss. Under the present system, the period for returning foreign exposed films is two years. I submit that it is too long a period. The distributor is entitled to a rebate only if the film is rejected by the Censors or becomes useless for exhibition owing to damage in transport or imperfect printing and processing. The time for discovering these defects need not be so long and if the period of two years is curtailed to six months, very few films will come up for rebate and Government will easily more than recoup the loss due to the acceptance of my amendment. This reduction of the period for rebate from two years to six months can, I think, be brought into force by an executive order without consulting this House.

At this proposal vested interests in the country, by which I mean the American film distributors and their parent concerns, the film producers in Hollywood, will, I am aware, raise a finger and call this an anti-American measure inasmuch as 75 per cent. to 80 per cent. of the exposed films, *i.e.*, entertainment films, come from U. S. A. This I can imagine from the attitude of the film press of that country, against which almost all the European countries have enacted quota laws to give a fillip and protection to the rising home industry from the keen foreign competition. Here I particularly draw the attention of these alien vested interests to the fact that the European countries in question place for the requirements of their film industries very small orders for raw cinema films, machinery and other equipment as they are industrially advanced countries and, therefore, self-sufficient in that respect. In the case of our country, it is quite different. Our film industry have been purchasing from U. S. A. from the beginning the major portion of their unexposed films—raw material for the industry and costly machinery, such as cine cameras, printing machines, recording and lighting equipments, etc., for the cinema studios, and silent and talkie projectors and other costly accessories and equipment necessary for exhibition in cinema theatres. Having considered this fact, we will tell the foreign critics to remember the well-known proverb "Live and let live". These people cannot expect to have it both ways. The shrewd foreign businessmen will not, I am confident, object in the least to this or similar suggestions that might come forward for the protection of the Indian film industry.

To sum up, the Indian film industry deserves encouragement at the hands of Government, as it is a great national asset. It is giving opportunities to all sections of the community to show what they are capable of doing, and it is providing profitable employment to a large number of people and promises to help larger numbers as it develops and expands. It has been the policy of all self-governing countries to give the necessary help and encouragement to the industry and I trust that the Government of India and this House will not lag behind and will pass the modest amendment I have the honour to support. (Loud Applause.)

**Mr. S. G. Jog:** Sir, I rise to speak on this occasion as the Chief Whip of the Nationalist Party and not on behalf only of the members of my Party, but I hope I shall have the support of the whole House. I must congratulate my friend, the Honourable Mr. Jadhav, that he has so very exhaustively dealt with the subject,—to such an extent in fact that he has not only exhausted himself, but exhausted also the patience of this House. (Laughter.) Sir, he has treated the subject from all points of view. He has given a historical retrospect. He has also made certain instructive suggestions. He has also realised the difficulties of the Commerce Member, and he has made certain other constructive suggestions. He has practically left nothing which he has not touched upon. (Hear, hear.) This film industry, Sir, particularly is a matter of great pride to me, as the originator of the film, as disclosed by my friend, is Mr. Phalke, a man from Maharashtra. The industry has been developing since then, and I am not prepared to tire out the patience of this House, but I will only bring to the notice of this House that in 1921 the number of cinemas was 148, in 1927 it rose to 300 and in 1932 it rose to 675. But although it appears that there is a gradual and slow growth in the increase of the film industry, this growth in the volume of the industry as compared with that in other countries is quite insignificant and negligible, and we are

[Mr. S. G. Jog.]

lagging far, far behind other countries. For the sake of information of the House, I shall briefly state as to what is our status, so far as this film industry is concerned. In America, the population is 120 millions, but the total number of cinemas is 20,000. . . .

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Does not the Honourable Member recognise that the fullest statistical information for the whole world has already been given to the House?

**Mr. S. G. Jog:** I quite appreciate the remarks of the Chair, but I think by mistake or by oversight my friend has omitted to mention this fact. (Laughter.) Sir, realising the necessity of being brief, I shall, with your permission, point out that in the case of India, with a population of 850 millions, our proportion is just the reverse. (*Some Voices:* "Shame. shame.") In America, Sir, the number of cinemas is 20,000, in England it is 4,850, whereas in India, with a population much more than that of other countries, our total number of cinemas is only 675. (*Ironical cries of* "Hear, hear.")

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Order, order.

**Mr. S. G. Jog:** I do not want to tire the House. (*Ironical cries of* "Hear, hear.")

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Order, order.

**Mr. S. G. Jog:** Sir, in the remarks, that have been made in the Select Committee Report, I find it stated:

"We have felt throughout our discussions the need for complete statistics of industrial production, giving detailed information regarding the various indigenous industries which might be affected by the proposals contained in the Bill."

Sir, I think this remark at least will not hold good in the case of the particular industry which is under discussion now before the House. I think in the case of other industries the Select Committee has suffered from lack of information whereas in this case I think it is just the reverse—there is a case of over-information. However, I must congratulate the Motion Picture Society of India, the representative body of the film industry, that they have collected all the necessary statistics and information and have placed the matter in the hands of some of the Members to enable them to deal with the subject. It is no doubt true that if the other industries follow suit and place sufficient material in the hands of Members, that will much facilitate the Ottawa Agreement and its operations later on. At present I must make the remark that there are many other industries which are not doing their proper duty by not giving proper information. There is much scope still for the growth of this film industry, and I think it is the duty of the Government to look into the matter and although it cannot exactly fit in our suggestions from the point of view of the present financial position, still, I hope, when the whole thing is in operation, probably after a few months, it will be agreed that it will be advisable to make a fresh survey of the whole thing so as to give the film industry the necessary encouragement in the shape of rebate or some other process acceptable to the Honourable the Commerce Member. Sir, I support the amendment.

**The Honourable Sir Joseph Bhore:** Sir, I hope my Honourable friend, Mr. Jadhav, will forgive me if I do not follow him through all the intricate details of his most exhaustive and encyclopædic treatment of the position of the film industry in this country. I may say, Sir, that a few days ago, I was waited upon by a Deputation representing the film industry in this country, and I can give this assurance to the House that the representations which I had from them on that occasion will receive our most careful and, I hope, sympathetic consideration. (Hear, hear.) I confess to a considerable amount of sympathy with a good deal that has fallen from Honourable Members who have spoken on this subject and I hope they will accept this assurance that I have just given, though it is not possible for me to accept this amendment. The House will realise that the Select Committee considered this matter and, as a result of our deliberations, it was possible for us to bring the preferential rate of duty down to the figure at which it stood up to 1931. That, I think, is a considerable achievement and I hope the industry itself will be satisfied with what it has gained from this revision of the rates. Sir, I oppose the amendment.

**Mr. T. N. Ramakrishna Reddi:** Sir, in view of the assurance given by the Honourable the Commerce Member, I wish to withdraw my amendment.

(Leave to withdraw the amendment was refused.)

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is :

"That in the Schedule to the Bill, in amendment No. 47, in the proposed Part IX, against item No. 240, for the figures and words '25 per cent.' and '15 per cent.', the figures and words '15 per cent.' and '5 per cent.', respectively, be substituted."

The motion was negatived. ;

**Mr. T. N. Ramakrishna Reddi:** Sir, I beg to move the amendment standing in my name which runs thus :

"That in the Schedule to the Bill, in amendment No. 47, in the proposed Part IX, against item No. 245, for the figures and words '45 per cent.' and '37½ per cent.', the figures and words '35 per cent.' and '27½ per cent.', respectively, be substituted."

Sir, this is the last of the amendments that have been moved on this Bill. I am sure, it will at once be conceded, that this is one of the most important of the amendments that have been moved so far. Sir, this amendment refers to an article of poor man's consumption, namely, betelnuts. The importance of this article has been perceived even by the Delegation which went to Ottawa and, from their Report, we find that they have given a preference of 7½ per cent. to Britain as against 10 per cent. preference with reference to all other articles of import except motor cars for which preferences were allowed. This is one of the two items which have got only 7½ per cent. preference to the United Kingdom in contrast to uniform 10 per cent. preference in other goods. Hence you find that it is an article of very great importance in the economy of consumption in India. The present duty is as high as 37½ per cent. It was only last year that the Honourable the Finance Member moved for the increase of this duty on this article to the present rate and, even then, I opposed the increase of duty on the ground that it was an article of poor man's consumption. The Honourable the Finance Member then said that in those days of economic depression even the poor man had to contribute something and so he pressed for this increase of duty. Now,

[Mr. T. N. Ramakrishna Reddi.]

I find that the situation has, to a great extent, eased and I am informed that the position of the Customs revenue has also been very much improved. Hence the circumstances that existed when this high duty was levied do not exist now. I also find from the Report of the Select Committee that they have given preferences to the United Kingdom on some articles, *e.g.*, cinematograph films, motor buses and others, by keeping the old rate as the standard rate and by giving preference entirely by the reduction of the present rate of duties. To my surprise, I find that with regard to betelnuts, they have given that preference to the United Kingdom, not by lowering the rate of duty, but by increasing the rate of duty over foreign imports. On the other hand, one ought to have found that they would have given this preference by reducing the rate as it existed at present. Sir, with regard to betelnuts, I am sure that my friend on my right would certainly oppose me, because even last year when I opposed the increase in duty he supported increased duties.

**Mr. K. P. Thampan:** How do you know?

**Mr. T. N. Ramakrishna Reddi:** That is why I naturally expected that he will oppose me, but I am glad to get an assurance from him that he will now support me. Sir, I admit that agriculturists would certainly suffer or rather would not get higher prices for their produce if any reduction of duty is made, but the growing of betelnuts is confined only to two or three districts in my Presidency. On the other hand, the consumers of the whole of India have to suffer on account of the raising of this rate of duty. And, as I said before, this is an article of poor man's consumption. At present India is not supplying the wants of the whole country and we are extensively importing from two places, namely, Ceylon and Straits Settlements. From the statistics which are available up to 1930-31, we find that 1,69,000 cwts. to the value of Rs. 31 lakhs of these betelnuts were imported from Ceylon and 10,00,000 cwts. to the value of 151 lakhs were imported from Straits Settlements. It will thus be seen that nearly the whole of the article has been imported from other countries. So, I contend that the duty, as it is at present levied, is very high and that it should be decreased and relief should be given to the poor consumers.

Sir, I move my amendment.

**Mr. President:** Amendment moved:

"That in the Schedule to the Bill, in amendment No. 47, in the proposed Part IX, against item No. 245, for the figures and words '45 per cent.' and '37½ per cent.', the figures and words '35 per cent.' and '27½ per cent.', respectively, be substituted."

**Mr. K. P. Thampan** (West Coast and Nilgiris: Non-Muhammadan Rural): Sir, I do not want to disappoint my friend, Mr. Reddi, in his anticipation that I would be opposing him in this amendment. Naturally, I would not have touched this Bill with a pair of tongs after the defeat I have had yesterday on copra, but my friend has drawn me out. Representing as I do the agriculturists of Malabar and South Kanara, which produce the major portion of betelnuts that is grown in this country, I will be failing in my duty if I remained quiet without protesting against this proposal. Sir, I have already acquainted the House with my views on this matter on a previous occasion and I oppose it.

**Mr. S. G. Jog:** Sir, I must congratulate the Indian Commerce Member on having put betelnut as the last item—No. 245. I do not know whether it is purely an accident or a deliberate programme. I think the Commerce Member knows very well the Indian customs. Betelnut plays a very important part in social gatherings and after giving sweets, if you want a guest to go, you simply offer him betelnut and it practically amounts to a mild hint or notice for the visitor to quit. I think the Commerce Member having come to the end of his troubles now probably wants this House to quit and by putting this betelnut as the last item he gives us a hint that the House should disperse quickly. We, on this side, take that mild hint and friendly hint of the Commerce Member and we shall follow it and terminate the proceedings quickly. My friend, Mr. Ramakrishna Reddi, has made out a good case for this amendment. Betelnut plays a very important part in our social customs: it is the poor man's hospitality and I think no more burden should be placed on it. With these words, I support the amendment of my friend, Mr. Reddi, and finally accept the last item of betelnut offered by the Commerce Member.

**The Honourable Sir Joseph Bhore:** Sir, I am sorry I cannot accept the suggestion of my Honourable friend, Mr. Jog, and distribute betelnuts to this House, because, I am afraid, supplies are not readily available at the present moment, and even if they were, you, Sir, might have something to say about it. My battle has been fought for me by the stalwarts of the West Coast represented by Mr. Thampan; but there is one point I would like to make and that is, that the statement of my friend Mr. Reddi, that betelnuts are grown in merely two or three districts is not correct. On the West Coast, it is grown in Travancore, Cochin, Malabar, North and South Canara, Coimbatore; in Bengal, it is grown in Backergunje and Noakhali; in Assam it is grown in Sylhet and Cachar; and it is also grown in Burma . . . .

**Mr. T. N. Ramakrishna Reddi:** But we import large quantities also.

**The Honourable Sir Joseph Bhore:** I frankly admit that we do; but, at the same time, the cultivation of betelnut is on a fairly extensive scale in this country. As the House knows, our recommendation to retain the standard duty as the preferential rate and give the preference entirely upward was dictated by two considerations: firstly, revenue, and, secondly, the desire to assist the cultivation of this particular agricultural product. Sir, I oppose the amendment.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in the Schedule to the Bill, in amendment No. 47, in the proposed Part IX, against item No. 245, for the figures and words '45 per cent.' and '37½ per cent.', the figures and words '35 per cent.' and '27½ per cent.', respectively, be substituted."

The motion was negatived.

The Schedule was added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

**The Honourable Sir Joseph Bhore:** Sir, I beg to move:

"That the Bill further to amend the Indian Tariff Act, 1894, for certain purposes, as reported by the Select Committee, be passed."



**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Motion moved:

"That the Bill, as amended, be passed."

**Sir Abdur Rahim** (Calcutta and Suburbs: Muhammadan Urban): Sir, I oppose this motion. In this attenuated House all that I can do at this stage is to record my protest against this Bill which has been introduced and is about to be passed in order to implement the Ottawa Scheme of preferential tariffs. I am afraid, the House is already very tired and it will serve no useful purpose for me to take up much of its time. But, after having read the Report of the Select Committee on this Bill, I am convinced all the more that the whole scheme is a pure gamble and that the Government are not justified in persisting in this measure at the instance of the British Government. I do not propose to discuss the merits of the detailed proposals in the Tariff Bill, but I wish to point out one very significant admission in the Report of the Select Committee that there are no proper statistics available of the industries of the country. They put it in very mild words, that there is no complete information available as regards our industries. Sir, in the Special Committee on the Ottawa Agreement I asked the officials who were assisting us to supply us with a list of industries in the country that may be affected. But we never received that list and, apparently, no such list and no information is available as to what are the indigenous industries growing or about to grow which are likely to be affected by the tariff proposals under the Bill. The Industries Department has been in existence for a long time and I should have thought that one of their primary functions was to collect facts and figures and all the information available as regards the progress of industrial development in India. It is a strange commentary on our present system of Government that no such information should be available to the country or to this House. What is the use, then, of an Industries Department? How can the industries of this country be looked after when we have no information whatever as to how many industries there are, what is their nature, what are their prospects, to what extent they are contributing to India's economic development and how they can best be protected? This is an omission on the part of the Government which the Select Committee took notice of and made a recommendation that steps should be taken at once to collect all necessary information on the subject. I should have thought that having regard to the economic position of the world and the need which, I do hope, the Government of India also feel that India cannot subsist merely upon agriculture, that India must develop suitable industries, that India must herself utilise as much of the vast resources which nature has placed at her disposal as possible and, if they have realised this even now, surely the first thing they ought to do is: they should set about in earnest to have an industrial survey of the entire country and make out a proper plan for the development of our industrial resources. That is the least they can do and, I hope the recommendation of the Select Committee is not a mere pious wish but that the Government will seriously act upon it and act upon it without further delay. I am sure, the Honourable the Finance Member will realise that India cannot possibly go on for long in this way; the finances of India are bound to break down unless India considerably develops her industries and increases her resources.

Sir, some individual industries have been dealt with in this Report, but I should have thought that the Select Committee would have had placed before it at least that list which was given by Professor Vakil whom we

examined in the Special Committee appointed to deal with the Ottawa Agreement. That list, if I remember correctly, contained 24 industries likely to be affected, and those of us, who signed the Minority Report, also named a number of articles which were likely to be affected by these preferential proposals, but even that list is not given here, and all that we are told is that the Select Committee have done their best to arrive at an equitable adjustment by which the various interests affected would be safeguarded. Now, Sir, look at the magnitude of interests, the variety of interests that are likely to be affected by these proposals, and I really do not find in this Report any real attempt to deal with these important matters. I do not suggest any shortcoming on the part of the Members of the Select Committee. I have had experience of one, and I know that under the circumstances with the materials at their disposal they were absolutely helpless, they had not the time, they had not the material, and, I take it, the British Government must have been asking the Government of India to hurry through the matter and let them have the Tariff Act at once. If they had the time and the opportunity, they could have embarked upon a proper examination of this important subject and then dealt with the various questions affecting the interests of the consumer, the industries and the public revenue. Now, Sir, upon the materials at our disposal, all that we can say is that such extensive alterations of the Tariffs are bound to affect either the consumer or the industries or the public revenue or some or all of them. Has any estimate been made, could it indeed be made in the circumstances? Could it possibly be ascertained how these various interests would be affected? I think the answer was given in anticipation, that is, we must make the experiment and then alone we can know how the various interests will be affected. So far as I am concerned, I consider, and, I am sure, there are a large number of people in the country, it not the entire country, who will consider this as a very light way and very insufficient way of treating a subject of such vast magnitude and importance.

The Government's case is, let an experiment be made for three years, let us see what the results are. *Prima facie* if you enhance the tariff, consumers are likely to suffer. It is all very well to say that in some cases the loss will fall on the producer, but, in the normal course of things, the consumers, the poor millions of India are bound to suffer. If, on the other hand, the tariff is lowered by giving preference to England by ten per cent. or five per cent., then that preference will be of no avail to Britain unless she is enabled thereby to compete not only with foreign exporters, but also with the indigenous industries of the country. I should have liked very much to know how the British list of preferences was drawn up. Surely competent persons must have advised them to the effect: if you have preferential treatment in these particular classes of goods, then you will be able to compete with the producers of similar classes of goods who sell them in the Indian market. Those must include the Indian producers also. That is the natural result, and that cannot be brushed aside by a few general remarks that "we have done our best". I have no doubt the Committee have done their best, but that is not the question. All of us are in the dark as to what the consequences will be. Surely the United Kingdom would not have asked for any preference unless she felt she was on sure ground of being able to capture a large portion of the Indian market—at the expense of the industries of this country and of the foreign countries. That must be the object, and that is why preference is sought.

[Sir Abdur Rahim.]

Now, as regards the revenues, I feel almost sure that my Honourable friend, Sir George Schuster, will assure the House that the revenues will not be affected, but he will pardon me if I say that I cannot accept this dictum at once. Even with him this must be more or less a matter of conjecture. Surely, if the duties are reduced by ten or five per cent., to that extent revenues will suffer, unless my friend is in a position to state to the House that the imports to India will increase proportionately; only in that case the loss can be made up. Now, we have no means of calculating, and, even with the Finance Member, who certainly is more familiar with the subject than any of us in this House, it must be more or less a matter of conjecture, to use popular language. We do not know what the next Budget will be like, we do not know whether we shall have proposals for further taxation or not, we have still another month or two before we know what the Budget proposals will be, but surely none can realise the difficulty of making an estimate more keenly and vividly than the Finance Member himself. When I read his statement at the Ottawa Conference, I was struck very much with the almost desperate position in which the finances of this country are at present. We all wish that the tide will turn and that we shall see the silver lining in the cloud; but it is all in the future, and with this reshuffling of the entire system of customs revenue by the present tariff proposals, surely the financial position of the Government of India must be still more uncertain than ever. I do not wish to go into details as I have said already, but I do feel and feel very strongly that the Report of the Select Committee on the Tariff Bill does not reassure us to any extent whatever. The position remains as obscure and as full of risks, real risks, to the public revenues, the public at large, the consumers, and to whatever industries we have in the country. On these grounds, I oppose the motion.

**Mr. B. Sitaramaraju** (Ganjam *cum* Vizagapatam: Non-Muhammadan Rural): Sir Abdur Rahim, myself and a few other Honourable Members were always opposed to the principle underlying this Bill, and the present measure embodies the stipulated margin which was recommended by a motion of the House which was accepted the other day. Sir, on the third reading of this Bill, if I propose to say a few words, it is in the nature of writing an epitaph on what I consider to be the grave of our opinions in this matter. Sir, we were told that we were misled, in fact we were told that we were duped by ignorance. We were duped according to our friends. The economists who agreed with us were duped; the business and commercial houses who agreed with us were also duped. The whole country which was with us was also duped. The only gentlemen who were not duped were my Honourable friends to the extreme right and to the extreme left! We know we are beaten, badly beaten, but I would like to say, not by Mr. Chetty, nor even by the Honourable the Commerce Member, but we feel that we were beaten by those people who, under a misguided policy, have boycotted this House. The majority of our colleagues had great hopes that they would be able to safeguard the interests of the consumer, to promote the interests of the agriculturist, and to protect the industrialist. Sir Abdur Rahim has already dealt with that part of the Select Committee report which stated that it was found impossible in several cases to reconcile the conflicting interests. It would have required some supermen in the Select Committee to reconcile those interests, but the Honourable Members of the Select Committee were only ordinary human beings and

they could not do a miracle. There was another difficulty which I pointed out yesterday, and I do not propose to go over that except to remark that it was a great handicap that information from the indigenous industries was not forthcoming to the extent desired to safeguard properly their interests. There are, for instance, in this Bill a number of articles on which are imposed a duty of 30 per cent. in the case of foreign imports and 20 per cent. in the case of United Kingdom imports, but a perusal of the list would show that the United Kingdom was not important in the Indian market in those commodities. The supplies of the United Kingdom were very few indeed when compared with the supplies from foreign countries, and, therefore, when we come to the question of the burden on the consumer, we have got to take into account the fact that several foreign countries are large suppliers of materials like copper, brass, aluminium and things like that, that the higher tariff will govern the general price level in the Indian market and that consequently it would operate as a burden on the consumer. Similarly, it is very difficult for us to say with any assurance in several cases notwithstanding the assurances given by the Leader of the Nationalist Party the other day, that we could do much to safeguard the interests of the consumer in the Select Committee. We tried our level best to safeguard, as far as possible, but the limitations, which I enumerated yesterday, made that almost impossible. Even in the Majority Report, it was admitted that there would be a diversion of trade from foreign countries, and it is impossible to believe that the foreign countries would take all this scheme lying down. They may retaliate, and if that retaliation were to come, a heavy responsibility would lie upon this House for creating such a situation. This is all that I would like to say at this stage. With a voice of protest against this measure, I conclude by remarks.

**Mr. C. S. Ranga Iyer** (Rohilkund and Kumaon Divisions: Non-Muhammadian Rural): Sir, I should not have spoken ordinarily after the speech of the Honourable the Leader of the Independent Party, who did not go into the Select Committee, because he did not agree with the principle embodied in the Ottawa Resolution—and carried out in the Tariff Bill—the principle of reciprocal preference. In each and every item that we examined, we endorsed that principle, we put our signature to that principle. The Honourable the Leader of the Independent Party would not reconcile himself to the principle. I could understand his attitude today on the floor of the House, but it is very difficult to understand the rather low, almost inaudible, most certainly ununderstandable “voice of protest” from an Honourable gentleman, sitting behind the Leader of the Independent Party, who just spoke. He put his signature to the Select Committee Report, with all the implications that a signature has . . . .

**Mr. B. Sitaramaraju:** The Select Committee cannot discuss the principle of the Bill.

**Mr. C. S. Ranga Iyer:** Yes, a Select Committee cannot discuss the principle of a Bill. The Honourable Member has been sufficiently long in this House, and, I believe, in a Provincial House, to know that a Select Committee endorses the principle of a Bill, and the Select Committee on the Ottawa Resolution and, subsequently, on the Ottawa Bill, carried out in each and every respect the principle of that Bill. He walked into that Select Committee, not like a blinded beast, not with eyes tied up. But, like an enlightened gentleman, he walked with eyes open into an illuminated room. It is too late now to say that we have not accepted the principle. Any one who signed that Report accepted it . . . .

**Mr. B. Sitaramaraju:** The Assembly may have accepted the principle of the Bill when it referred the Bill to the Select Committee, but it is something different from saying that every one of the Select Committee accepted that principle.

**Mr. C. S. Ranga Iyer:** The Committee recommended to the Assembly and the Assembly will today further endorse the principle which was originally endorsed in the Resolution. The Honourable gentleman said that we were writing something in the nature of an epitaph on the grave of our opinions. He was almost lugubrious in tone; he was sepulchral in outlook. (Laughter.) I do not share that funereal, that sepulchral

1 P.M. attitude. I can only say that the opportunity which sincerely and earnestly the Leader of the Independent Party wanted in regard to the industrial survey will be provided by the Assembly Committee which was, I considered at the original stage and still consider, to be a very valuable instrument. It will be a really useful weapon in the hands of this Legislature if only the Legislature knows how to use it. (Applause.)

**Mr. S. C. Mitra** (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): After the acceptance by this House of the Ottawa Agreement, I think the scope of this Bill was very limited and all that this House or the Select Committee could do was to give effect to the ten per cent. preference to the British goods and to the Colonies. I join issue with Mr. Ranga Iyer on the constitutional point that everybody who goes to the Select Committee is bound to accept or has accepted by implication the principle that has been passed by this House.

**Mr. C. S. Ranga Iyer:** Not by implication, but by action, by signature.

**Mr. S. C. Mitra:** Let him read the constitution of the world outside. There are in many countries distinct and definite parties. The Opposition on almost all occasions votes against the principle of the Bills that are introduced. In the Select Committee, there are members of all the parties. As a matter of fact, the Select Committee in the British Parliament represents the whole House in miniature in proportion to their number. Because the Opposition and other parties entered the Select Committee, therefore, they are committed to the principle, it is a very odd constitutional idea to be expressed and emphasised by my friend, Mr. Ranga Iyer. I had been a member of the Select Committee and I have not committed myself to the principle of the Bill that ten per cent. preference should be given to British Empire countries or the Colonies, but in spite of our protest when the House accepts it, it is accepted on behalf of India and the effort of the Opposition in the Select Committee is to minimise, according to their own light, the demerits that are inherent in those proposals. So, I maintain that it is not in any way inconsistent with my friend, Mr. Raju's position as a member of the Select Committee. As regards the sepulchral outlook that he apprehended, time alone will judge. It is no use being jubilant or being very sanguine at this moment. The future will speak for itself as to whether we were right or the other Members. But that question is neither here nor there. As regards the one point on which all the 19 Members of the Select Committee who were present and also my friend, the Honourable Mr. Sadiq Hasan, who was the only absent member, are all agreed is about para. 2 of the Select Committee's

Report. I should like to conclude my speech by merely quoting that para. My Leader, Sir Abdur Rahim, made it clear that the Industries Department failed to give us the figures of Indian industries which were absolutely necessary to definitely settle about this ten per cent. whether it should be added to or subtracted from. We, in the Select Committee, were not in the position of a Tariff Board. The accepted policy of the Government of India about discriminating protection is the ruling principle. We were there only to distribute this ten per cent. preference. In the second para., the Select Committee unanimously says:

"Within the limitations imposed on us by the stipulated margin of preference we have endeavoured to reconcile, as far as possible, interests which may, in many cases, appear to conflict, namely, those of the primary producer, the manufacturer, the consumer and the taxpayer. We have felt throughout our discussions the need for complete statistics of industrial production, giving detailed information regarding the various indigenous industries which might be affected by the proposals contained in the Bill. Since the rates of duty proposed by the Government were published, a certain number of representations have been received from Indian industries regarding the manner in which they expected the application of those rates to affect their interests, and in a very few cases personal representations have been made to us. In the majority of cases, however, we have had no other material to guide us than the information which the Government Departments concerned have been able to place before us."

I must point out here that the Department of Industries has lamentably failed in supplying us with up to date facts and figures about the development of indigenous industries on which alone we could properly deal with the problem before us. The Committee further says:

"That information was necessarily incomplete, and we recommend that, as far as may be practicable, steps should be taken to collect and compile the statistics to which we have referred."

**The Honourable Sir Joseph Bhore:** I do not wish and, I am sure, the House would not wish me to reopen and revive the controversy which has occupied us in this House for so many days. My Honourable friend, the Leader of the Independent Party, and those, who think with him, have found it necessary to reiterate their position, but I take it, Sir, that that is rather with the intention of emphasizing their adherence to the views they had already expressed and not with any intention of endeavouring to convert the House by argument or appeal at this stage. There is nothing in the speech of my Honourable friend, the Leader of the Independent Party, which has not been traversed and replied to already and it would be needless and unnecessary iteration on my part to repeat arguments which have been repeated on the floor of this House more than once. There is only one point I should like to refer to and it is my Honourable friend's concern in regard to the financial consequences of the adoption of this policy of preference. I would only in this connection repeat to him the figures which I gave to the House in my opening speech. I pointed out that no less than 55 per cent. of our imports were entirely outside the scheme of preference, that 22.4 of the remaining 45 per cent. were covered by preferential duties. How long those preferential duties will remain and what they will eventually be, will depend entirely upon the reports of the Tariff Board on the cotton textile and iron and steel industries. The preferences that we are now giving apply to only 22.6 per cent. of our imports and, so far as it has been possible for our experts to calculate, the preferences that we are now giving will cause little or no

[Sir Joseph Bhore.]

change in our financial position. Sir, I am afraid we must differ on the question of principle and, if so, let us agree to differ, because I think neither my Honourable friend opposite nor I can at present claim the joy that comes from the sinner that repenteth, but I am sure, at any rate I hope that my Honourable friend and others who went into the lobby against us when we voted on the Resolution will realise and admit that if we fought and fought strenuously on that occasion, it was because we were inspired with the honest conviction that what we were doing was in the best interests of India. Sir, there I think the House may allow this controversy to rest for the present.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola) The question is:

"That the Bill, as amended, be passed."

The motion was adopted. (Loud Applause.)

The Assembly then adjourned *sine die*.



### **CORRIGENDA.**

#### **In the Legislative Assembly Debates—**

1. Volume VI, No. 1, dated the 7th November, 1932, page 1723, line 19 from the bottom, *for* the word "board" *read* "broad".

2. Volume VI, No. 8, dated the 21st November, 1932, page 2300, line 5 from the bottom, *for* the word "word" *read* "words".

3. Volume VII, No. 9, dated the 12th December, 1932—

(i) page 3093, *insert* the following subject-heading to the Statement laid on the table by Mr. G. S. Bajpai in connection with the information promised in reply to Starred Question No. 1457 :—

"Bad Condition of a Road near Turkman Gate, Delhi."

(ii) page 3125, line 2, *for* the words "of offenders" *read* "offenders".

(iii) page 3138, lines 12 and 13 from the bottom, *for* the words "safeguards have been put.....mention the clauses in which such" *read* "disregard these safeguards. Sir, I will mention the clauses in which such safeguards have been put forward. The proviso to section 4 of the Bengal".

4. Volume VII, No. 10, dated the 14th December, 1932, page 3175, line 6 from the bottom, *for* the word "Magistrate" *read* "Magistrates".





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**RULING(S) BY MR. DEPUTY PRESIDENT (MR. R. K. SHANMUKHAM CHETTY)—**

**Miscellaneous—**

Discussion on a point of order on which a ruling has been given is wholly irrelevant. 2872, 2874.

**RULING(S) BY MR. PRESIDENT (THE HONOURABLE SIR IBRAHIM RAHIMTOOLA)—**

**Bill(s)—**

The fact that an amendment asking for the repeal of a clause was previously discussed and voted upon does not take away the right of Honourable Members to discuss why the clause should or should not be allowed to stand part of the —. 2643.

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## **Bill(s)—*contd.***

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The Legislative Assembly is fully competent to enact an indemnity clause before any cause for it has arisen. 2868.

The Legislative Assembly is fully competent to enact that the decisions of the District Judge and the Chief Judge of the Small Cause Court are final. 2868.

When a ——— proposes to supplement some provisions of an Act of a Provincial Legislature which deal with legal procedure, Honourable Members are entitled to refer to them only, but they cannot discuss the merits of that Act. 3197.

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An Honourable Member while quoting instances must bear in mind that these are relevant to the matter under discussion, but reading out a series of instances without in any way attempting to connect them with the main issue cannot be allowed. 2229.

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**Resolution(s)—*contd.***

In the terms of the Standing Order, two days' notice is required for every amendment to be moved. The Chair has the power of suspending the Standing Order and allowing an amendment to be moved at any stage of the debate ; but in order that the Chair may be able to consider whether an amendment should be allowed without notice, it is necessary that an Honourable Member should hand over in writing the amendment which he proposes to move. 1959.

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**Criminal Law Amendment Bill—**

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